

1 UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
2 EASTERN DIVISION
3 IN RE: NATIONAL) MDL No. 2804
PRESCRIPTION OPIATE)
4 LITIGATION) Case No.
1:17-MD-2804
5)
THIS DOCUMENT RELATES TO) Hon. Dan A. Polster
6 ALL CASES)
)

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9
10 Friday, January 25, 2019

11
12 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
CONFIDENTIALITY REVIEW

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16 Videotaped Deposition of EUGENE G.
CAVACINI, held at Winstead PC, 2728 North
17 Harwood, Suite 500, Dallas, Texas, commencing
at 9:01 a.m., on the above date, before
18 Michael E. Miller, Fellow of the Academy of
Professional Reporters, Registered Diplomate
19 Reporter, Certified Realtime Reporter and
Notary Public.

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17 VIDEOGRAPHER/TRIAL TECHNICIAN:

18 RICHARD RIENSTRA,

Golkow Litigation Services

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1 PROCEEDINGS

2 (January 25, 2019 at 9:01 a.m.)

3 THE VIDEOGRAPHER: We are now
4 on the record. Today's date is
5 January 25th, 2019, and the time is
6 approximately 9:01 a.m.

7 This video deposition is being
8 held in Dallas, Texas in the matter of
9 In re National Prescription Opiate
10 Litigation, Case No. 1:17-MD-2804.

11 The deponent today is Mr. Gene
12 Cavacini.

13 The court reporter is Mr. Mike
14 Miller.

15 Would counsel like to identify
16 yourselves for the record, starting
17 with counsel on the telephone, please.

18 THE REPORTER: Counsel on the
19 phone, please identify.

20 MS. PINCUS: Lauren Pincus from
21 Allegaert Berger & Vogel, on behalf of
22 Rochester Drug Cooperative Inc.

23 MS. RIGBERG: Karen Rigberg
24 with Arnold & Porter in Los Angeles
25 for the Endo and Par defendants.

1 MS. ROSENTHAL: Amanda
2 Rosenthal from Collinson Daehnke
3 Inlow & Greco for C&R Pharmacy.

4 (Telephone interruption.)

5 MS. HENN: Any other counsel on
6 the phone?

7 MR. BOGLE: Brandon Bogle on
8 behalf of the MDL plaintiffs.

9 MR. RALEY: Matt Raley with
10 BakerHostetler on behalf of Cardinal
11 Health.

12 MS. ZAMORA: Sandra Zamora,
13 McKesson in-house legal.

14 MR. LIVINGSTON: Scott
15 Livingston on behalf of HBC.

16 MS. BALASTER: Mary Balaster
17 with Reed Smith on behalf of
18 AmerisourceBergen Drug Corporation.

19 MR. BRODSKY: Richard Brodsky
20 from Jones Day on behalf of Walmart.

21 MS. DALIA-HUNT: Marina
22 Dalia-Hunt from Covington for McKesson
23 and the witness.

24 MS. HENN: Emily Henn from
25 Covington & Burling on behalf of

1 McKesson and the witness.

2 THE VIDEOGRAPHER: Would the
3 court reporter please swear in the
4 witness.

5 (Witness sworn by the
6 reporter.)

7 EUGENE G. CAVACINI,
8 having been duly sworn,
9 testified as follows:

10 EXAMINATION

11 BY MR. BOGLE:

12 Q. Good morning.

13 A. Good morning.

14 Q. Can I get your full name,
15 please?

16 A. Eugene Gregory Cavacini.

17 Q. And I understand you've been
18 deposed once during your lifetime; is that
19 right?

20 A. Yes, correct.

21 Q. And that was about a little
22 less than a year ago. Does that sound right?

23 A. I believe it was last May.

24 Q. Okay. Just to kind of reorient
25 you to the basics of a deposition, my name is

1 Brandon Bogle. I'm going to be asking you
2 some questions today. I'll do my best when
3 I'm asking you questions to let you finish
4 your answer before I get to my next question.

5 I would ask sort of the same
6 from you, meaning wait until I finish my
7 question before you answer. It makes the
8 record a little clearer and, quite frankly,
9 it makes sure you understand what I'm asking
10 you. Is that fair?

11 A. Yes, thank you.

12 Q. And if you need a break at any
13 point in time in the deposition, just let me
14 or your counsel know. We have no problem
15 doing that. It's not an endurance contest in
16 that regard. Okay?

17 A. Thank you.

18 Q. And the last thing is, if I ask
19 you a question that you don't hear or don't
20 understand, please ask me to repeat or
21 rephrase and I will do my best to do so.
22 Otherwise, I will assume you understand or
23 heard my question. Is that fair?

24 A. It is.

25 Q. Okay. You are currently

1 employed with McKesson; is that right?

2 A. Correct.

3 Q. Okay. And you've been there
4 since 2002; is that right?

5 A. Correct.

6 Q. Okay. And I just want to run
7 through the positions you've held since 2002,
8 make sure I'm understanding correctly.

9 I understand that from 2002
10 through 2005 you worked as a sales executive
11 at McKesson. Does that sound right?

12 A. It does. I thought I was in
13 that role a little bit longer, but could be.

14 Q. Okay. Let's do this maybe to
15 make it a little smoother.

16 You have a LinkedIn page
17 online; is that correct?

18 A. I probably do, yes.

19 Q. Do you recall ever drafting
20 one?

21 A. Yes. I don't currently manage
22 it, but --

23 Q. All right. Let's take a look
24 at that and I just want to walk through again
25 some of your roles at McKesson over time.

1 A. Yep.

2 Q. I'm going to hand you what's
3 marked as Exhibit 1 to your deposition, which
4 is also 1.2131. This is a public document,
5 so no Bates stamp.

6 (McKesson-Cavacini Deposition
7 Exhibit 1 marked.)

8 BY MR. BOGLE:

9 Q. Okay. Mr. Cavacini, you see at
10 the top here there's your name; is that
11 right?

12 A. Correct.

13 Q. Okay. Just looking at this,
14 and it's just one page, does this seem to
15 correspond with what you understand to be
16 your LinkedIn page?

17 A. It does.

18 Q. Okay.

19 A. Yes.

20 Q. Okay. And so, for example, if
21 we walk through going from bottom to top,
22 it's noted to be a sales executive from
23 January 2002 through November 2005.

24 Does that seem accurate to you?

25 A. It does.

1 Q. Okay. And what were your job
2 functions generally as a sales executive at
3 McKesson?

4 A. I was a sales executive for our
5 retail independent business, and I described
6 that role as a business development role. I
7 was tasked with targeting non-McKesson
8 customers and trying to identify if there was
9 a fit for them to become McKesson customers.

10 Q. So trying to bring in new
11 business; is that fair?

12 A. Yes.

13 Q. Okay. And was there a specific
14 geographic region you focused on during that
15 time period in that job?

16 A. There was. I was responsible
17 for the markets serviced by our Delran
18 distribution center, which would have been
19 primarily eastern Pennsylvania, the state of
20 New Jersey, a little bit of Maryland and
21 Delaware, and the boroughs of New York City.

22 During the course of my tenure
23 in that role, I also had some
24 responsibilities for our New Castle markets
25 that would have been western Pennsylvania,

1 pieces of eastern Ohio, the northwest corner
2 of West Virginia.

3 Q. Okay. In your responsibility
4 for the New Castle market, did that cover the
5 entire three and a half years that you had
6 that role?

7 A. No. I started primarily in the
8 Delran market and then over time expanded
9 into the New Castle market.

10 Q. So in that, again, sort of
11 three-and-a-half-year time period, do you
12 have a recollection as to how much time you
13 spent sort of trying to get new business in
14 the New Castle market?

15 A. I would say the primary focus
16 was in the New York City area. That's where
17 most of our opportunity was. As far as time,
18 I don't recall when exactly I got
19 responsibility for the New Castle market. I
20 was living outside of Philadelphia and
21 focusing most of my time in the Delran
22 market.

23 Q. Okay. And going back to your
24 LinkedIn page, the next job that's listed
25 there is a district sales manager from

1 November 2005 to March 2009.

2 Does that time frame and that
3 job title sound accurate to you?

4 A. It does seem accurate, yes.

5 Q. Okay. And so as district sales
6 manager, let's start again: What were your
7 general tasks in that position?

8 A. I've described that role as a
9 front line sales manager role. I led a team
10 of retail sales managers whose primary
11 responsibilities were the management of
12 existing McKesson accounts, taking care of
13 our relationship, making sure that we were
14 providing good service and working with those
15 accounts to sell our value proposition and
16 services.

17 Q. Approximately how many people
18 did you supervise during that time period?

19 A. It did move from time to time,
20 based on the market needs, and again, my
21 responsibilities, but I would say on average
22 ten, you know, maybe a max of 15.

23 Q. Okay. And was there a specific
24 geographic region you covered in that
25 position?

1 A. It was similar to the sales
2 executive role. Started with the Delran
3 distribution center, so which would have been
4 that eastern Pennsylvania, New Jersey
5 New York markets.

6 During that tenure, I also had
7 responsibility for the New Castle markets,
8 which came later.

9 Q. Okay. You say it came later.
10 Do you recall the specific time period that
11 the New Castle responsibilities came?

12 A. I don't remember exactly when
13 they expanded the responsibilities to cover
14 New Castle. There was another sales manager
15 that retired, I believe, and they gave me
16 that territory at that time.

17 Q. Okay. What was the sales
18 manager's name that retired?

19 A. Jim Gavatorta.

20 Q. Then looking at your LinkedIn
21 page, you're noted to be vice president of
22 sales, March 2009 to January 2012. So again,
23 does that job title and time period seem
24 accurate to you?

25 A. It does, yes.

1 Q. And again, any specific
2 geographic region you have responsibility for
3 with that position?

4 A. It was the same markets as the
5 district sales manager; had responsibility
6 for the Delran distribution center and the
7 New Castle distribution center.

8 Q. Okay. Did you take on any new
9 geographic responsibilities or did it remain
10 those two distribution centers during that
11 roughly three-year period of time?

12 A. It was those two distribution
13 centers.

14 Q. Okay. And can you give me a
15 high-level description of your job
16 responsibilities with that position?

17 A. I would say it was very similar
18 to the district sales manager role, leading a
19 team of retail sales managers responsible for
20 the maintenance and growth of existing
21 McKesson accounts, very similar job.

22 Q. Okay. Did you take on a larger
23 group of people that you supervised with that
24 position versus the district sales manager
25 position?

1 A. No. We were experiencing some
2 growth in the New York City market and we had
3 added people over time. My recollection is
4 we had kind of restructured the organization
5 at that time. We created a new role called a
6 general manager role and retitled the
7 organization.

8 I ended up hiring a district
9 sales manager under me to cover the Eastern
10 parts of the market and was given the title
11 of vice president of sales.

12 Q. Okay. What was the name of the
13 district sales manager you hired that you
14 referenced there?

15 A. I'm trying to think. I
16 remember it being Sam Ha.

17 Q. And then moving up your
18 LinkedIn page, you're noted to be vice
19 president/general manager from January 2012
20 to March 2015.

21 Again, does that job title and
22 that time period seem accurate to you?

23 A. It does, yes.

24 Q. Okay. And it looks like you
25 moved locations there to Memphis so what

1 geographic region were you responsible for
2 with that position? Was it different?

3 A. It was, yes.

4 Q. Okay.

5 A. My family and I physically
6 moved to a suburb of Memphis and I was
7 responsible for the Memphis DC, the
8 distribution center that serviced the markets
9 of eastern Tennessee, Arkansas, Mississippi,
10 a little bit of Louisiana, a little bit of
11 Missouri.

12 And again, just for
13 clarification, went to that role with simple
14 responsibility for the Memphis DC. Into my
15 tenure I also assumed responsibility for our
16 Oklahoma City distribution center, which
17 would have serviced the markets of Oklahoma
18 and Texas, a little bit of Kansas.

19 Q. Do you know when you got -- and
20 a rough time frame is fine -- when you got
21 the responsibilities that were added in
22 Oklahoma City?

23 A. I think roughly a year into my
24 tenure, so I would say 2013, but...

25 Q. Okay. Yeah, an approximation

1 is fine.

2 A. Thank you.

3 Q. All right. Let's go -- moving
4 up the LinkedIn page, you're listed next as a
5 senior vice president - NER, from April 2015
6 to August 2017.

7 Do you see that there?

8 A. I do, yes.

9 Q. Okay. Does that position in
10 that time period -- is that accurate --

11 A. Yes.

12 Q. -- based on your recollection?

13 A. Yes.

14 Q. Okay. And NER, is that
15 northeast region?

16 A. It is, yes.

17 Q. Okay. And as the senior vice
18 president, again, can you give me a
19 high-level understanding of what you did in
20 that position?

21 A. I had full operating
22 responsibility for our distribution centers
23 that serviced our northeast region as well as
24 revenue or sales responsibility for our
25 retail independent business and our hospital

1 business in those markets.

2 Q. Okay. What geographic area did
3 the northeast region cover in that time
4 frame?

5 A. Approximately Virginia to Maine
6 and west to Ohio, the eastern parts of Ohio.
7 A little bit of North Carolina.

8 Q. And when you say Virginia to
9 Maine, you're talking south to north,
10 basically straight up the Eastern seaboard?

11 A. Straight up the Eastern
12 seaboard, south to north, and then west to
13 the eastern parts of Ohio.

14 Q. Did your territory at that
15 point in time include any portions of West
16 Virginia?

17 A. It would have. Our
18 distribution center in Virginia and our
19 distribution -- our New Castle distribution
20 center serviced parts of West Virginia.

21 Q. Okay. All right. Now, moving
22 up to the last position you have noticed --
23 noted here is SVP/COO McKesson, U.S. Pharma.
24 It says August 17th to present.

25 Do you see that?

1 A. I do.

2 Q. Okay. Now, just so the
3 acronyms are clear, SVP, would that be senior
4 vice president?

5 A. Senior vice president.

6 Q. COO is chief operating officer?

7 A. Correct.

8 Q. Okay. For McKesson U.S.
9 Pharma. Are you still holding that position?

10 A. I am, yes.

11 Q. Okay. And does that seem
12 accurate as far as the time frame that you
13 took that role over?

14 A. I do. There was some overlap
15 with my predecessor. He left the
16 organization in July, so I assumed.

17 Q. Who was your predecessor?

18 A. Frank Starn.

19 Q. Okay. So as COO and senior
20 vice president, can you give me again a
21 high-level understanding of what your role is
22 in those positions?

23 A. Absolutely. So I'm responsible
24 for our distribution network, our 26 what we
25 refer to as forward DCs that pick, pack and

1 ship the orders for our hospital as well as
2 our pharmacy customers.

3 I lead the organizations that
4 provide our customer service and customer
5 care teams as well as our sales
6 effectiveness, and I have sales or revenue
7 responsibility for our retail independent
8 business, our hospital business and our
9 government business.

10 Q. Okay. Approximately how many
11 people report to you at McKesson as a COO?

12 A. I believe approximately 6,000.
13 The majority of those are our hourly
14 associates that work in the distribution
15 centers.

16 Q. Okay. And department-wise,
17 which departments at McKesson report up
18 through you?

19 A. I mean, functions, I've got
20 customer care, sales effectiveness, our
21 contracting teams, our distribution ops teams
22 that lead the distribution center operations,
23 our retail sales teams for independent
24 customers, our hospital sales teams that call
25 on our hospital partners.

1 I have a few of our -- what I
2 would call our strategic business units, our
3 masters, which is a generics business, our
4 blood and plasma business that services our
5 hospital channels with specialty products.

6 And I have our responsibility
7 for our packaging business in Memphis,
8 compliance packaging for manufacturers.

9 Q. Okay. Does the regulatory
10 affairs department or anyone in the
11 regulatory affairs department report up to
12 you as COO?

13 A. They do not.

14 Q. Who do they report up to?

15 A. Currently it would be the
16 president of our business unit. That would
17 be --

18 Q. Who is that?

19 A. Brian Tyler is our interim
20 president.

21 Q. You said Tyler?

22 A. Tyler.

23 Q. Okay. And as COO, would I
24 understand correctly that you serve on the
25 board of directors as well?

1 A. I do not.

2 Q. You do not. Okay.

3 And as far as the hierarchy at
4 McKesson, approximately how many people are
5 higher up in the organizational structure
6 than the COO position at McKesson,
7 U.S. Pharma-wise? Let's focus on
8 U.S. Pharma.

9 A. I don't know. I've never -- in
10 U.S. Pharma?

11 Q. Yes, sir.

12 A. I mean, I report directly to
13 the president of the business unit, so one.

14 Q. Okay. And the role as COO of
15 U.S. Pharma is a role of significant
16 responsibility, true?

17 A. I believe I see a
18 significant -- I take my role as having
19 significant responsibility. I take it
20 seriously, yeah.

21 Q. I mean, it's a high-ranking
22 role at the company, true?

23 A. It's a senior leadership role.

24 Q. Right.

25 Now, the McKesson U.S. Pharma

1 sales force, from the time that you joined
2 the company to present, what would you
3 approximate is the average size of the U.S.
4 Pharma sales force for McKesson during that
5 time frame?

6 A. Across both of our segments for
7 retail, independent and health systems, I
8 think the field sales organization is
9 approximately 200 people.

10 Q. Okay. When you say field
11 sales, what does that mean?

12 A. Those that are in the primary
13 selling relationships that hold the title of
14 retail sales manager for independent or
15 account manager for our health systems and
16 hospital business.

17 Q. Okay. So those 200, would that
18 also include the district sales managers and
19 the vice presidents positions?

20 A. No, I think including sales
21 management, probably closer to 250.

22 Q. Okay. When you took over the
23 role as COO in 2017, did you have to undergo
24 any sort of specific training for that role?

25 A. As I mentioned earlier, there

1 where there's an agenda that's reviewed where
2 you're taught certain aspects of the
3 position?

4 A. No, I don't remember a
5 classroom or formal training as you describe.

6 Q. Okay. Now, when you took over
7 the role as COO, did you undertake any sort
8 of historical analysis to understand how the
9 sales department at U.S. Pharma has worked
10 for the company over time?

11 MS. HENN: Objection to form.

12 A. I've been a part of the sales
13 organization for U.S. Pharma in one role or
14 another for the better part of my career. I
15 think -- I don't remember that being a
16 conversation I had with Frank.

17 BY MR. BOGLE:

18 Q. Okay. So if I'm understanding
19 you correctly, it's something you felt like
20 you were already knowledgeable about when you
21 took over the role?

22 A. I believe I have a pretty good
23 understanding.

24 Q. Okay. How about on the
25 operations side, did you undertake any sort

1 of analysis as to how the operations side of
2 the business at U.S. Pharma at McKesson has
3 worked historically prior to you taking over
4 that role?

5 MS. HENN: Objection to form.

6 A. You know, my two prior roles as
7 vice president and general manager and senior
8 vice president had operating responsibilities
9 for distribution centers, so, no, I don't
10 remember specific training or conversations
11 relative to the DC operations. I believe I
12 had a pretty good understanding.

13 BY MR. BOGLE:

14 Q. Okay. And that's -- I'm just
15 trying -- that's fine. I just want to make
16 sure I understood.

17 So again, just sort of similar
18 to the sales aspect, you felt when you took
19 over the position of COO in 2017, given your
20 time with the company, you had a good
21 understanding of how the operations side of
22 the company worked; is that true?

23 A. I think I continue to learn
24 ever day but I believe I have a good
25 understanding. I competed for the role and

1 was selected, so I believe others had
2 confidence in my understanding as well.

3 Q. When you say you competed for
4 the role, what do you mean?

5 A. There was an interview process.
6 I believe probably others had interest in the
7 role and were considered, and I was selected.

8 Q. Okay. How did you find out the
9 role was available to be filled?

10 A. Conversations with leadership
11 at U.S. Pharma.

12 Q. Okay. Do you recall who
13 informed you of that initially?

14 A. It was probably Mark Walchirk.
15 Frank had decided not to come with the
16 company to Dallas and there was going to be
17 an opening.

18 Q. And you work in the Dallas
19 area; is that true?

20 A. I do. I'm officed here in Las
21 Colinas.

22 Q. So now at your time in the
23 last -- I guess it's almost 18 years at the
24 company, have you developed an understanding
25 as to McKesson's practices as far as

1 distribution of opioids?

2 MS. HENN: Objection to form.

3 A. I've been part of U.S. Pharma
4 for 17 years. I actually believe I just
5 crossed my 17th anniversary with the company.

6 BY MR. BOGLE:

7 Q. Okay.

8 A. And, yeah, through my
9 experience and time, I'm familiar with our
10 responsibility and ability to distribute
11 controlled substances.

12 Q. Okay. Including opioids?

13 A. I believe opioids are a
14 controlled substance, yes.

15 Q. Right. And during your time at
16 the company, do you feel like you've gained
17 knowledge as to the sales practices of
18 McKesson as it relates to opioids in the last
19 17 years?

20 MS. HENN: Objection to form.

21 A. I think I have a good
22 understanding of our sales practices, the
23 responsibilities of our sales teams, what we
24 ask our sales teams to do and how we expect
25 them to perform.

1 BY MR. BOGLE:

2 Q. Okay. Do you agree that there
3 is an epidemic ongoing, an opioid epidemic
4 ongoing in this country?

5 A. I am acutely aware of the
6 epidemic as it's been well documented and
7 described.

8 Q. Okay. When you say acutely
9 aware, what do you mean by that?

10 A. I'm very aware.

11 Q. Okay. The term "diversion,"
12 have you heard of that term before?

13 A. I have.

14 Q. What do you understand that
15 term to mean as it applies to controlled
16 substances?

17 A. I would say, you know, people
18 acquiring, using, dispensing prescription
19 medications, controlled substances, including
20 opioids, in a way that's not consistent with
21 how they're intended.

22 Q. Do you agree that diversion of
23 opioids has contributed to the opioid
24 epidemic?

25 MS. HENN: Objection to form.

1 A. I'm not sure of the connection.

2 BY MR. BOGLE:

3 Q. Okay. Is that something you've
4 ever looked at for yourself?

5 MS. HENN: Objection to form.

6 A. No, I'm not aware that I've
7 done any specific research on the connection.

8 BY MR. BOGLE:

9 Q. Okay. You would agree that
10 protecting the health and safety of the
11 public is the most important role for a
12 pharmaceutical distributor like McKesson,
13 right?

14 A. I think we have an important
15 responsibility to play in our part of the
16 supply chain, and that we have very clear
17 responsibilities under the Controlled
18 Substances Act and making sure that we uphold
19 those responsibilities is important.

20 Q. Okay. And the responsibilities
21 under the Controlled Substances Act
22 specifically, those are important
23 responsibilities.

24 You would agree with that,
25 right?

1 A. I believe all of our regulatory
2 responsibilities are important, yes.

3 Q. Okay. To include
4 responsibilities under the Controlled
5 Substances Act, true?

6 MS. HENN: Objection to form.

7 A. All of our responsibilities,
8 including our responsibilities under the
9 Controlled Substances Act, we take them very
10 seriously.

11 BY MR. BOGLE:

12 Q. Okay. And McKesson, during the
13 17 years you've been with the company, has
14 distributed opioid products, right?

15 A. We have distributed
16 prescription medications of all kinds,
17 including controlled substances, and yes,
18 including opioids.

19 Q. Okay. And you understand that
20 opioids are narcotics? That's the class of
21 drug they're in, right?

22 A. I believe I have heard them
23 referred to that way, yes.

24 Q. And you referenced the
25 Controlled Substances Act a minute ago. You

1 have an understanding that the Controlled
2 Substances Act is, by design, intended to
3 assist in preventing diversion, right?

4 MS. HENN: Objection to form.

5 A. I'm -- I have an awareness and
6 an understanding of our responsibilities
7 under the Controlled Substances Act. I
8 understand our responsibilities to guard
9 against diversion.

10 BY MR. BOGLE:

11 Q. Okay. And do you understand
12 why those responsibilities exist as to
13 McKesson, to guard against diversion? What's
14 the purpose of them?

15 MS. HENN: Objection to form.

16 A. I believe I do. I believe the
17 responsibilities that we have, as well as
18 other partners in the supply chain, are meant
19 to be collaborative and corresponding and
20 build on each other to make sure that there's
21 effective checks and balances from physicians
22 to pharmacies to distributors to
23 manufacturers, to have effective controls
24 that guard against diversion.

25 BY MR. BOGLE:

1 Q. Okay. In those checks and
2 balances you referred to, do you have an
3 understanding as to why those would be
4 important to have in place?

5 MS. HENN: Objection to form.

6 A. I think because the supply
7 chain is complex and every part of it has a
8 role, and, you know, our responsibility is
9 equally important.

10 BY MR. BOGLE:

11 Q. Okay. And you agree that
12 McKesson has a role in attempting to prevent
13 diversion of controlled substances, right?

14 A. Again, my understanding is to
15 have effective controls to guard against
16 diversion.

17 Q. Okay. In your mind, is there a
18 difference between guarding against diversion
19 and attempting to prevent it, and if so,
20 what's the difference?

21 A. You know, I'm not a lawyer, and
22 the technical differences there, you know,
23 it's always been explained to me that
24 guarding against diversion is our
25 responsibility, and that's how we see it.

1 Q. Okay. I'm not asking you as a
2 lawyer. I'm just asking -- making sure I
3 understand what you understand the
4 responsibilities to be.

5 So do you think there's a
6 distinction in your mind as to guarding
7 against diversion versus attempting to
8 prevent diversion?

9 A. I guess the distinction for me
10 is that preventing is, you know, very
11 difficult, you know, with the complexity of
12 our supply chain and that we're doing our
13 best to prevent, to guard against, is our
14 responsibility.

15 Q. And whether it's difficult or
16 not, it's an important thing to -- for
17 McKesson to do its best to accomplish, right?

18 A. We work incredibly hard at it.
19 That's been my experience.

20 Q. Okay. And so because it's an
21 important thing to try to accomplish, right?

22 MS. HENN: Objection to form.

23 A. Our responsibilities under the
24 Controlled Substances Act are important, yes.
25 BY MR. BOGLE:

1 Q. You mentioned having effective
2 controls against diversion. What do you
3 understand that to include? What's
4 encompassed within that?

5 MS. HENN: Objection to form.

6 A. I think there are several
7 components that we understand our
8 responsibilities to be, and they range from
9 knowing our customer to having systems in
10 place to identify orders that could
11 potentially deviate in frequency, size or
12 pattern.

13 BY MR. BOGLE:

14 Q. Okay. You understand that one
15 of McKesson's responsibilities is to monitor
16 for suspicious controlled substance orders,
17 correct?

18 A. A part of our program to guard
19 against diversion is that we monitor orders
20 to see if they deviate, like I said, pattern,
21 size, frequency. That is a component of the
22 program.

23 Q. And you also understand that
24 there is an obligation of McKesson to report
25 suspicious orders when they are detected,

1 right?

2 A. Under the Controlled Substances
3 Act, I believe we have a responsibility to
4 report orders that we deem -- I'm sorry.

5 Q. Yeah. Were you done? I'm
6 sorry.

7 A. Yes.

8 Q. Okay. And under the Controlled
9 Substances Act, McKesson also has an
10 obligation to halt the shipment of suspicious
11 orders when they're detected, true?

12 MS. HENN: Objection to form,
13 lacks foundation.

14 A. I believe our responsibility is
15 to have effective controls to guard against
16 diversion.

17 BY MR. BOGLE:

18 Q. Okay. I think my question was
19 more specific than that. Let me reask it
20 just to make sure.

21 Under the Controlled Substances
22 Act, McKesson also has an obligation to halt
23 the shipment of suspicious orders when
24 they're detected, true?

25 MS. HENN: Objection to form,

1 lacks foundation.

2 A. I'm not sure. I think in
3 our -- our practice is to stop orders that we
4 deem -- I would like to maybe see the
5 regulations again -- I don't have them. To
6 stop the order? I'm not sure.

7 I mean, to identify orders and
8 to report them, to have effective controls.

9 BY MR. BOGLE:

10 [REDACTED]
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15 MS. HENN: Objection to form.

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23 MS. HENN: Objection to form.

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1 MS. HENN: Objection to form,
2 asked and answered.

3 BY MR. BOGLE:

Category	Percentage
4	10%
1	10%
2	10%
3	10%
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9	10%
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94	10%
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96	10%
97	10%
98	10%
99	10%
100	10%

20 MS. HENN: Objection to form.

Country	Share of GDP
21	100%
	90%
	80%
	70%
	60%

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Q. Okay. I'm going to hand you what I'm marking as Exhibit 2 to your deposition, which is also 1.1464. Bates number is MCKMDL00478906.

And, Mr. Cavacini, I have to read off the numbers. You don't have to worry about that part, I just have to do it.

(McKesson-Cavacini Deposition Exhibit 2 marked.)

BY MR. BOGLE:

Q. Okay. To orient you to Exhibit 2 here, you see at the top is a letter from the U.S. Department of Justice, Drug Enforcement Administration, dated September 27, 2006?

Do you see that, top of the

1 first page?

2 A. September 27th, 2006, yes.

3 Q. Have you ever seen this letter
4 before?

5 A. I believe I have, yes.

6 Q. Do you recall about when you
7 first saw this letter?

8 A. I can't say for certain when I
9 first saw it. I do know I've seen it.

10 Q. Okay. I want to take a look at
11 a couple of aspects of this letter here. The
12 first paragraph says: This letter is being
13 sent to every commercial entity in the United
14 States registered with the Drug Enforcement
15 Administration (DEA) to distribute controlled
16 substances. The purpose of this letter is to
17 reiterate the responsibilities of controlled
18 substance distributors in view of the
19 prescription drug abuse problem our nation
20 currently faces.

21 Do you see that?

22 A. I do, yes.

23 Q. Okay. And given your 17 years
24 at the company, do you have an understanding
25 at this point in time in 2006 that there was

1 a prescription drug abuse problem in the
2 United States that was ongoing?

3 MS. HENN: Objection to form.

4 A. It's hard for me to say exactly
5 what I knew in 2006. I think my awareness
6 was probably growing and developing at that
7 time, but I can't say exactly what I knew. I
8 do see that in the next sentence, you know.

9 BY MR. BOGLE:

10 Q. Okay. Let me ask it to you
11 this way then.

12 Do you understand as you sit
13 here today that there was a prescription drug
14 abuse problem that our nation was facing in
15 2006?

16 MS. HENN: Objection to form,
17 asked and answered.

18 BY MR. BOGLE:

19 Q. Do you have that knowledge
20 today?

21 MS. HENN: Same objection.

22 A. I mean, I -- the next sentence
23 of the letter says that the abuse of
24 controlled prescription drugs is a serious
25 and growing healthcare problem in the

1 country; so in 2006, that was the position of
2 the DEA.

3 BY MR. BOGLE:

4 Q. Okay. I guess what I'm asking
5 you though is: As you sit here today, do you
6 have any disagreement that there was a
7 prescription drug abuse problem that dates
8 back to at least 2006?

9 MS. HENN: Objection to form,
10 asked and answered.

11 A. I don't know. And my awareness
12 of it, you know, grew over time, and when it
13 exactly started to take hold is hard for me
14 to say. We've covered -- its existence today
15 is very well documented.

16 BY MR. BOGLE:

17 Q. I want to look at the third
18 paragraph on the first page here. It says:
19 The CSA was designed by Congress to combat
20 diversion by providing for a closed system of
21 drug distribution, in which all legitimate
22 handlers of controlled substances must obtain
23 a DEA registration and, as a condition of
24 maintaining such registration, must take
25 reasonable steps to ensure that their

1 registration is not being utilized as a
2 source of diversion.

3 Do you see that?

4 A. I do.

5 Q. Okay. The concept of a closed
6 system of drug distribution, that's a concept
7 you're familiar with as it pertains to
8 controlled substances, right?

9 MS. HENN: Objection to form.

10 A. It's a term I've heard before,
11 and I think in an earlier answer of what I
12 was trying to describe with the different
13 members of the supply chain that have equal
14 and corresponding responsibility.

15 BY MR. BOGLE:

16 Q. And by having a closed system
17 of distribution, that means that not every
18 distributor out there can distribute
19 controlled substances; you have to actually
20 have a registration that's granted by the
21 DEA, right?

22 MS. HENN: Objection to form,
23 compound.

24 A. I believe to be a distributor
25 of controlled substances you need to have a

1 registration that's granted by the DEA, and
2 I've referred to that as a privilege that we
3 have.

4 BY MR. BOGLE:

5 Q. And the next sentence says:
6 Distributors are, of course, one of the key
7 components of the distribution chain.

8 Do you agree with that?

9 A. I would, yes.

10 Q. Okay. It says: If the closed
11 system is to function properly as Congress
12 envisioned, distributors must be vigilant in
13 deciding whether a prospective customer can
14 be trusted to deliver controlled substances
15 only for lawful purposes.

16 Do you see that sentence?

17 A. I do.

18 Q. Do you agree with that?

19 MS. HENN: Objection to form,
20 calls for speculation.

21 A. I agree that as I stated
22 earlier, knowing our customers and having an
23 understanding of their business is a
24 responsibility we have and is a core
25 component of the program we have in place

1 today.

2 Q. Okay. And that responsibility
3 has existed the entire time you've been with
4 the company, right?

5 MS. HENN: Objection to form.

6 A. I believe that our
7 responsibilities under the Controlled
8 Substances Act have existed during my entire
9 time with the company.

10 BY MR. BOGLE:

11 Q. Okay. The next sentence says:
12 This responsibility is critical as Congress
13 has expressly declared that the illegal
14 distribution of controlled substances has a
15 substantial and detrimental effect on the
16 health and general welfare of the American
17 people.

18 Do you see that?

19 A. I do see that.

20 Q. Okay. If you go to the second
21 page of the letter here, and I'm about
22 three-quarters of the way down the page, the
23 paragraph that starts "Thus, in addition."

24 Do you see where I'm at?

25 A. I do.

1 Q. Okay.

2 A. Third paragraph up from the
3 bottom.

4 Q. That's correct, sir.

5 It says there: Thus, in
6 addition to reporting all suspicious orders,
7 a distributor has a statutory responsibility
8 to exercise due diligence to avoid filling
9 suspicious orders that might be diverted into
10 other than legitimate medical, scientific,
11 and industrial channels.

12 Do you see that reference?

13 A. I do.

14 Q. Okay. Is that consistent with
15 what your understanding was in 2006 that
16 distributors like McKesson had a statutory
17 responsibility to avoid filling suspicious
18 orders?

19 MS. HENN: Objection to form,
20 lacks foundation.

21 A. In my responsibility -- my
22 understanding of our responsibility under the
23 Controlled Substances Act is to have an
24 effective program to guard against diversion.

25 BY MR. BOGLE:

1 Q. Okay. Does that include
2 avoiding filling suspicious orders once
3 they're detected?

4 MS. HENN: Objection to form.

5 A. I think I stated earlier that
6 I'm not clear on how our responsibility to
7 stop or prevent filling is specifically
8 called out in the controlled substance
9 regulations, but to identify orders that
10 deviate, to report those orders, and to have
11 an effective program that guards against
12 diversion is.

13 BY MR. BOGLE:

14 Q. Okay. So from this letter in
15 September 27th, 2006, do you think there's
16 anything unclear about the sentence I just
17 read which indicates that distributors should
18 avoid filling suspicious orders that might be
19 diverted into other than legitimate medical,
20 scientific and industrial channels?

21 MS. HENN: Objection to form.

22 A. Nothing unclear about the
23 letter. What is unclear to me is how, if
24 any, this relates to the actual statute, the
25 Controlled Substances Act.

1 BY MR. BOGLE:

2 Q. Okay. The sentence I read
3 here, though, indicates that at least in 2006
4 it was DEA's view that that was part of a
5 statutory responsibility, correct?

6 MS. HENN: Objection to form.

7 A. I see where in this letter it
8 states that they believe, in addition to
9 reporting, the distributor has a statutory
10 responsibility to exercise due diligence.

11 BY MR. BOGLE:

12 Q. Do you have any independent
13 knowledge as you sit here today that that was
14 not part of McKesson's statutory
15 responsibilities during the entire time
16 you've been with the company?

17 MS. HENN: Objection to form,
18 calls for a legal conclusion.

19 A. Could you repeat the question.

20 BY MR. BOGLE:

21 Q. Sure.

22 Do you have any independent
23 knowledge as you sit here today that the
24 responsibility to avoid filling suspicious
25 orders was not part of McKesson's statutory

1 responsibilities for the entire time you've
2 been with the company?

3 MS. HENN: Objection to form,
4 calls for a legal conclusion.

5 A. I'm not sure, and I think -- I
6 keep coming back to what my understanding of
7 our responsibilities are, and that's to have
8 an effective program to guard against
9 diversion.

10 BY MR. BOGLE:

11 Q. Okay. But to my question as to
12 whether you have any independent knowledge
13 that McKesson lacked the statutory
14 responsibility to avoid filling suspicious
15 orders during the entire time you were with
16 the company, can you speak to that?

17 MS. HENN: Objection to form,
18 lacks foundation and calls for a legal
19 conclusion.

20 [REDACTED]
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MS. HENN: Objection to form,

lacks foundation, calls for a legal

conclusion, asked and answered.

A. And I'm unclear if this

statement of statutory responsibility is in

the regulations today, so -- or if it was in

the regulations at that time. That's where

my understanding of the Controlled

Substances -- I'm not familiar with that

term.

BY MR. BOGLE:

Q. Okay. So I guess going back to

my question: Do you have any independent

knowledge as you sit here today that at any

point in time you were at the company, that

was not McKesson's responsibility?

MS. HENN: Objection, asked and

answered, lacks foundation, calls for

a legal conclusion.

A. Do I have any...

1 I don't know.

2 BY MR. BOGLE:

3 Q. Okay. Let me ask it to you a
4 different way.

5 The concept of being a good
6 corporate citizen, that's something that's
7 important at McKesson, right?

8 A. I believe we have, you know, a
9 deep commitment to being part of the
10 communities we serve and being good stewards
11 of them.

12 Q. And as a company aiming to be a
13 good corporate citizen, do you think in that
14 regard that it's important that when the
15 company detects suspicious orders, that they
16 not fill them when it comes to controlled
17 substances like opioids?

18 MS. HENN: Objection to form.

19 [REDACTED]
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MS. HENN: Objection --

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BY MR. BOGLE:

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[REDACTED]

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MS. HENN: Objection to form.

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MS. HENN: Objection to form,

calls for speculation.

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MS. HENN: Objection to the

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form, asked and answered.

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BY MR. BOGLE:

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Q. Okay. Well, you understand
that McKesson as a distributor of, as you
said, many different types of products and
items, that you guys have a choice to decide
to ship or not ship any sort of product that
a company orders, right?

15

MS. HENN: Objection to form,

16

lacks foundation.

17

A. I don't -- I don't know that I
necessarily agree with the premise of the
question, the way the question is structured.

20

BY MR. BOGLE:

21

Q. Okay. So do you -- is it your
view that McKesson, as it pertains to any
product that it sells, lacks the opportunity
to deny the customer the product if they
think it's not appropriate to give it to

1 them?

2 MS. HENN: Objection to form,
3 compound, lacks foundation.

4 A. I think about our
5 responsibility as a distributor to make sure
6 that legitimate medical products, medicines,
7 durable medical equipment, are available to
8 healthcare providers at the time that they
9 need it, and, you know, I don't know that
10 we're in a position to deny access to
11 products that are ordered by pharmacists for
12 their needs pursuant to a prescription.

13 We have some influence and
14 ability of who we do business with. I mean,
15 I agree with that, but reviewing every order
16 for any product and determining if it's
17 appropriate or needed, I don't know that I
18 would agree that we're in that position.

19 Q. Okay. So take this as an
20 example.

21 McKesson is, first of all, a
22 for-profit business, right?

23 A. We're a publicly traded
24 healthcare compare.

25 Q. Right. So you guys, for

1 example, are not in the practice of providing
2 pharmacies medications if they told you that
3 there's no way we can ever pay you for any
4 medications that we order, right?

5 A. I think when I referenced we
6 have some choice of who we do business with,
7 who we open up accounts with, yeah, I mean,
8 reasonable to assume that if an account had
9 no ability or willingness to pay, we probably
10 wouldn't knowingly enter into a business
11 relationship.

12 Q. And if you already had a
13 relationship with them and they came to you
14 at some point thereafter and said we can't
15 pay you for any product any further going
16 forward, but will you still do business with
17 us, can you think of an instance where
18 McKesson has said, yes, we'll, in perpetuity,
19 do business with you despite the fact you
20 can't pay?

21 MS. HENN: Objection to form.

22 A. No. No, if we were knowing and
23 a customer had expressed their ability to not
24 pay and depending on our contractual
25 relationships with that customer, I mean, I

1 am aware of some that we are obligated to
2 keep shipping even if they don't pay, state
3 governments, for example; as a matter of due
4 practice, if they didn't have the ability to
5 continue to pay us, we probably would not
6 continue to do business with them.

7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
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15 [REDACTED]
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30 [REDACTED]

Horizontal bar chart showing the percentage of respondents for various categories. The categories are listed on the left, and the percentages are shown as horizontal bars on the right. The categories are: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

Category	Percentage
1	85%
2	78%
3	88%
4	15%
5	10%
6	10%
7	75%
8	88%
9	52%
10	10%
11	70%
12	68%
13	10%
14	10%
15	75%
16	78%
17	75%
18	78%
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93	75%
94	78%
95	75%
96	78%
97	75%
98	78%
99	75%
100	78%

1 MS. HENN: Objection to form,
2 lacks foundation.

A horizontal bar chart titled 'Percentage of respondents who believe that the government should do more to protect the environment'. The chart is divided into two main sections: 'Men' on the left and 'Women' on the right. Each section contains four bars representing different age groups: '18-29', '30-49', '50-69', and '70+'. The y-axis represents the percentage, ranging from 0 to 100 in increments of 20. The bars are colored in a light blue/grey shade. The data shows that a majority of respondents in both genders believe the government should do more to protect the environment, with the highest percentages generally found in the 18-29 age group.

Gender	Age Group	Percentage (%)
Men	18-29	85
	30-49	75
	50-69	70
	70+	65
Women	18-29	80
	30-49	70
	50-69	65
	70+	60

15 Q. Okay. Backing up, you do know
16 there was a settlement agreement entered
17 between McKesson and the DEA regarding
18 violations of the Controlled Substances Act,
19 correct?

20 MS. HENN: Objection to form,
21 lacks foundation.

22 A. I'm aware that there were
23 allegations made by the DEA that the company
24 entered into a settlement in 2008.

25 BY MR. BOGLE:

1 Q. Okay. Have you seen that
2 agreement?

3 A. I believe I have, yes.

4 Q. About when did you see it, do
5 you recall? Just a year would be fine.

6 MS. HENN: Objection to form.

7 A. I can't say for certain when I
8 first saw it.

9 [REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

14 MS. HENN: Objection to form,
15 calls for speculation.

16 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] [REDACTED]
[REDACTED]
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[REDACTED]

23 MS. HENN: If this is -- if
24 we're about to start some lengthy
25 questions, we've been going about an

1 hour. Is this a good time for a
2 five-minute break?

3 MR. BOGLE: That's fine. I'll
4 give it to you after the break.

5 THE VIDEOGRAPHER: We're off
6 the record at 10:01 a.m.

7 (Recess taken, 10:01 a.m. to
8 10:10 a.m.)

9 THE VIDEOGRAPHER: We are back
10 on the record at 10:10 a.m.

11 BY MR. BOGLE:

Category	Percentage
1	10%
2	85%
3	90%
4	95%
5	60%
6	80%
7	45%
8	25%
9	80%
10	100%
11	95%
12	90%

1

[REDACTED]

2

Do you recall that question?

3

MS. HENN: Objection to form.

4

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BY MR. BOGLE:

Q. Just to orient you on the first if you need to look at anything, let me but I just kind of want to orient you e document first, if you don't mind.

The first page says:

Settlement and Release Agreement and Administrative Memorandum of Agreement, and in the first paragraph there's a date of May 2nd, 2008.

Do you see that there?

A. I do, May 2nd, 2008.

Q. Okay. Do you recognize this as a settlement agreement you reviewed previously?

1 A. It looks like the same
2 document, yes.

3 Q. Okay. And you do understand
4 from having reviewed this previously that the
5 settlement that was entered into in May of
6 2008 between the DEA and McKesson involved
7 allegations by the DEA of violations of the
8 Controlled Substances Act, many of which
9 included opioid distribution, right?

10 MS. HENN: Objection to form.

11 A. As I get refamiliarized with
12 the allegations that are documented here,
13 they seem to focus around failing to maintain
14 effective controls and alleges failed to
15 report suspicious orders, controlled
16 substances.

17 BY MR. BOGLE:

18 Q. Okay. And the allegations
19 specifically involve, many of them, opioids,
20 right?

21 For example, if you go to
22 Appendix B of the document, on the second
23 page there, there's a section that talks
24 about covered conduct. I think it's 13 pages
25 in, it looks like.

1 A. Is there a point number at the
2 top?

3 Q. It should be, I think, .13.

4 A. .13?

5 Q. Yeah. Do you see where I'm at
6 generally here, the section in the middle of
7 the page titled: The covered conduct shall
8 mean the following alleged conduct?

9 A. I do.

10 Q. Okay. I'm not going to read
11 all the stuff hereafter, but, for example,
12 there's conduct in the District of Maryland
13 involving the distribution of 3 million
14 dosage units of hydrocodone to
15 NuCare Pharmacy in Baltimore from
16 January 2005 to October 2006 the DEA contends
17 McKesson failed to report as suspicious.

18 Do you see that?

19 A. I do see that in the document.

20 Q. Okay. And hydrocodone is an
21 opioid product, right?

22 A. I believe. I'm not 100% sure.

23 Q. Okay. You don't know if
24 hydrocodone is an opiate?

25 A. I can't say for certain.

1 Q. Okay. If you look down in
2 letter B, talking about conduct in the Middle
3 District of Florida, there's a reference to,
4 in October 2005, McKesson-Lakeland sold
5 approximately 2.1 million dosage units of
6 hydrocodone to seven pharmacies in the Tampa
7 area, and then it lists the pharmacies, and
8 failed to report these sales as suspicious
9 orders to DEA when discovered.

10 Do you see that?

11 A. I do see where the document
12 says that, yes.

13 Q. Okay. And then it goes on.
14 There's conduct also outlined in Texas,
15 Colorado, Utah and California.

16 Do you see that?

17 A. Colorado, Utah, California,
18 yes.

19 Q. Okay. So we're talking about
20 conduct that occurred in multiple
21 distribution centers, right? You can see
22 that from the document?

23 MS. HENN: Objection to form,
24 lacks foundation.

25 A. I can see where the document

1 calls out allegations by the DEA in several
2 of our distribution centers.

3 BY MR. BOGLE:

4 Q. Right. For example, the
5 Maryland conduct talks about
6 McKesson-Landover, right?

7 A. It does yes.

8 Q. The Florida conduct refers to
9 McKesson-Lakeland, right?

10 A. It does.

11 Q. The Texas conduct refers to
12 McKesson-Conroe, right?

13 A. It does.

14 Q. The Colorado conduct refers to
15 McKesson-Aurora, right?

16 A. It does, yes.

17 Q. The Utah conduct refers to
18 McKesson-Salt Lake City, right?

19 A. Yes, agreed.

20 Q. And the California conduct
21 refers to McKesson-West Sacramento, right?

22 A. Yes, correct.

23 Q. Those are all different
24 distribution centers that would have existed
25 at McKesson at that point in time, right?

1 A. I believe so, yes.

2 Q. Okay. So when you reviewed
3 this settlement agreement, when it references
4 these allegations regarding hydrocodone,
5 oxycodone, fentanyl, methadone, did you not
6 have an understanding that those were all
7 opioid products?

8 MS. HENN: Objection to form.

9 A. I'm aware that they're all
10 controlled substances. I don't know that I'm
11 aware that they're all opioids.

12 BY MR. BOGLE:

13 Q. Okay. Are you aware of any
14 base chemicals that are in the opiate family?

15 A. I believe so, yes.

16 Q. Which ones?

17 A. Oxycodone.

18 Q. Okay. Any others?

19 A. I believe fentanyl is as well.
20 The question earlier about hydrocodone, I'm
21 just not 100% sure that...

22 Q. Okay. So -- and again, I
23 didn't intend to read all the covered conduct
24 here, but you can if you want to to answer my
25 question.

1 These allegations that are made
2 here by the DEA in this settlement agreement
3 related to hydrocodone, fentanyl, oxycodone,
4 methadone distribution by various McKesson
5 distribution centers, these are serious
6 allegations, right?

7 MS. HENN: Objection to form.

8 A. I would describe them as
9 serious obligations -- allegations, yes.

10 BY MR. BOGLE:

11 Q. Okay. And you understand as
12 part of this settlement agreement, McKesson
13 agreed to pay a \$13.25 million fine, right?

14 MS. HENN: Objection to form.

15 A. I am aware that as a result of
16 the settlement, McKesson did agree and I
17 believe we paid a fine.

18 BY MR. BOGLE:

19 Q. It's page .5 if that helps.

20 A. The 13.25, yes, 13.25.

21 Q. You see that? Okay.

22 In your experiences at 17 years
23 at McKesson, if there are allegations made of
24 wrongdoing by the company, when the company
25 disagrees with those allegations, do they

1 contest them?

2 MS. HENN: Objection to form,
3 calls for speculation.

4 A. I'm not sure in every
5 circumstance. I would -- so the question is
6 if McKesson disagrees with the allegations,
7 do they contest them?

8 BY MR. BOGLE:

9 Q. Right. Allegations as serious
10 as the ones we're looking at here related to
11 distribution of various controlled
12 substances, including opioids.

13 MS. HENN: Objection to form.

14 A. I'm not sure, but --

15 BY MR. BOGLE:

16 Q. Okay.

17 A. I'm not sure.

18 Q. Okay. Well, can -- first of
19 all, \$13.25 million is a lot of money, right?

20 A. I think that's relative. To me
21 that's a lot of money.

22 Q. Okay. And do you think for
23 McKesson that's not a lot of money?

24 A. I don't -- I guess it depends
25 in the context of what it is, you know. I

1 would say generally it's a material sum.

2 Q. Okay. And during your 17 years
3 with the company, can you think of an
4 instance where McKesson has paid a fine of
5 \$10 million or more for conduct that it
6 disagreed that it actually committed?

7 MS. HENN: Objection to form.

8 A. I'm not sure.

9 BY MR. BOGLE:

10 Q. I'm just asking if you're aware
11 of any circumstance that you could advise our
12 jury about.

13 MS. HENN: Objection, asked and
14 answered.

15 MR. BOGLE: You can answer.

16 THE WITNESS: I'm sorry, could
17 you repeat the question?

18 MR. BOGLE: Yeah.

19 BY MR. BOGLE:

20 Q. Are you aware of any
21 circumstance that you could advise our jury
22 about of McKesson disagreeing with
23 allegations of wrongdoing yet paying a fine
24 of more than \$10 million, while you've been
25 at the company?

1 MS. HENN: Objection to form,
2 asked and answered.

3 A. I'm not sure that I understand
4 the question, but I think companies settle
5 disputes through a number of ways, and I'm
6 not familiar with or was involved in any of
7 the conversations that led up to this
8 settlement.

9 BY MR. BOGLE:

10 Q. Okay. Yeah, I'm not talking
11 about other companies. I'm just talking
12 about McKesson. I'm not asking you to talk
13 about other companies.

14 I'm just asking you, in the
15 17 years you've been with McKesson, can you
16 think of a single instance where the company
17 has paid a fine exceeding \$10 million for
18 conduct it disagreed that it actually was
19 involved in?

20 MS. HENN: Objection to form,
21 asked and answered, calls for
22 speculation.

23 A. I'm not sure, but my
24 understanding of this settlement is that we
25 did not admit liability to any of the

1 allegations. The agreement is neither an
2 admission by McKesson of liability of any of
3 the allegations made by the DEA in the orders
4 and investigations, nor a concession by the
5 DEA that its allegations were not well
6 founded.

7 MR. BOGLE: Move to strike as
8 nonresponsive.

9 BY MR. BOGLE:

10 Q. My question was simply whether
11 you can think of a single instance in the
12 last 17 years where McKesson has paid a fine
13 exceeding \$10 million for something it
14 believed it did not do?

15 MS. HENN: Objection, calls for
16 speculation, asked and answered
17 numerous times.

18 A. I'm not sure. I'm not involved
19 in those discussions.

20 BY MR. BOGLE:

21 Q. Okay. When you read this
22 settlement agreement, did you ever reach out
23 to anybody at McKesson and ask whether the
24 company believed or didn't believe it
25 committed the conduct outlined in the

1 settlement agreement?

2 MS. HENN: I'll just object and
3 instruct the witness that to the
4 extent your question is asking for
5 information and conversations that he
6 may have had with attorneys, that he
7 shouldn't answer; but otherwise, he
8 may.

9 MR. BOGLE: Yeah, that's fine.

10 BY MR. BOGLE:

11 Q. So carving out conversations
12 with legal counsel, you ever talk to anybody
13 at McKesson about whether there was a view
14 that the company did or did not do the things
15 outlined in the settlement agreement as it
16 pertained to controlled substances reporting
17 and shipping?

18 A. I don't recall specific
19 conversations to this settlement, and if -- I
20 don't know that I -- in what period of time?

21 Q. Anytime after you read it.

22 A. I'm not sure. I don't recall
23 those conversations.

24 Q. Okay. Meaning you don't recall
25 whether they occurred, right?

1 A. If I -- again, if I proactively
2 reached out and asked anybody if -- was that
3 the question?

4 Q. Yeah, so I'll rephrase it for
5 you just so we're clear.

6 We looked at the covered
7 conduct section here, which outlines covered
8 conduct in one, two, three, four, five, six
9 different McKesson distribution centers.

10 My question is simply, after
11 you read that covered conduct in the
12 settlement agreement, when you read it while
13 you were at McKesson, did you ever reach out
14 to anybody and say, did we actually do that?
15 Did we do those things they're alleging we
16 did?

17 MS. HENN: And I'll make the
18 same objection.

19 MR. BOGLE: Yeah, except with
20 counsel. I'm not asking about
21 counsel.

22 MS. HENN: If I can just make
23 sure to issue the same instruction to
24 the witness about not revealing any
25 conversations you may have had with

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MS. HENN: Objection to form,

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compound.

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[REDACTED]

[REDACTED]

MS. HENN: Objection to form,

lacks foundation.

THE WITNESS: Can you repeat

the question again?

MR. BOGLE: Sure.

BY MR. BOGLE:

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MS. HENN: Objection to form,

lacks foundation.

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Q. Do you want to look at it for a

7

second? I just want to make sure you're

8

focused on my question, so if you want to

9

look at it, just let me know.

10

A. I'm just taking a second to --

11

Q. Sure. Just let me know when

12

you're ready to talk about it.

13

A. Okay.

14

Q. Okay. I want to look at the

15

e-mail first. Mr. Walker says: Paul -- I

16

think that refers to a Paul Julian.

17

What was Mr. Julian's role at

18

that point in time at McKesson?

19

A. I can't say for sure what his

20

role was in 2008. For the most of my career,

21

I knew Paul as our executive vice president

22

and president of our distribution businesses.

23

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[illegible]

25 Q. Okay. And then this is a --

1 we're talking about a settlement here. This
2 is around the same time as the settlement
3 agreement we just reviewed, right?

4 MS. HENN: Objection to form,
5 asks for speculation.

6 A. It's around the same time of
7 the settlement we just reviewed, so I can't
8 say for certain if it's referencing the same
9 one.

10 BY MR. BOGLE:

11 Q. Okay. Are you aware of any
12 other settlements in or around early 2008
13 other than the one we just looked at,
14 McKesson was involved in?

15 A. Don't know that I'm aware of
16 any.

Age Group	Percentage
17	~10%
18-24	~95%
25-34	~35%
35-44	~85%
45-54	~75%
55-64	~45%
65+	~15%
18-24	~10%
25-34	~15%
35-44	~10%
45-54	~45%
55-64	~85%
65+	~95%
18-24	~35%

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MS. HENN: Objection to form,

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lacks foundation.

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MS. HENN: Objection to form.

Go ahead.

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MS. HENN: Objection to form,

14

asked and answered.

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MS. HENN: Objection to form.

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MS. HENN: Objection to form,

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asked and answered.

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24 MS. HENN: Objection to form,
25 lacks foundation.

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MS. HENN: Objection to form.

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MS. HENN: Objection to form.

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MS. HENN: Objection to form.

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MS. HENN: Objection to form.

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BY MR. BOGLE:

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MS. HENN: Mischaracterizes the
document.

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MS. HENN: Objection to form,

calls for speculation.

A. I don't know. I didn't write the document. Again, I don't remember this document going out in this form. I can't say if it did or it didn't, if further changes were made. It's hard for me to say why it was drafted this way.

BY MR. BOGLE:

Q. Prior to the implementation of the CSMP in 2008, did you -- actually, strike that.

Horizontal bar chart showing the percentage of respondents for various categories. The categories are listed on the left, and the percentage values are shown as horizontal bars. The categories are: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

Category	Percentage
1	75%
2	85%
3	78%
4	75%
5	88%
6	82%
7	85%
8	85%
9	85%
10	82%
11	15%
12	85%
13	25%
14	15%
15	15%
16	78%
17	85%
18	85%
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21	78%
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Category	Percentage
1	85%
2	90%
3	88%
4	92%
5	75%
6	80%
7	95%
8	82%
9	85%
10	65%
11	80%
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Q. Okay. And in 2011, August 2011 specifically, you would have been part of the McKesson U.S. Pharma sales force, right?

A. I believe I was a vice president of sales at that time, yes.

Q. Right. Okay.

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MS. HENN: Objection to form,

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MS. HENN: Objection, asked and
answered.

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Q. Okay. So let me make sure I

understand then.

So while you were -- as part of
the McKesson sales force, which really
extended all the way until 2017, right? 2002
to 2017?

1 A. I lead large parts of our
2 organization now, but I don't have a
3 full-time selling responsibility.

4 Q. Right. Let me rephrase the
5 question because I think we're agreeing with
6 each other.

7 So from 2002 to 2017, to
8 August 2017, you were part of the sales
9 organization at McKesson, right?

10 A. My responsibilities as
11 senior -- I had operating responsibility, I
12 had responsibilities beyond sales in my
13 senior vice president role, my VP/GM role.
14 They were leaders of salespeople, but I
15 wouldn't consider it part of the sales
16 organization.

17 Q. Okay. Let me ask you this:
18 2002 to 2005 as a sales executive, you're
19 part of the sales force at McKesson
20 U.S. Pharma, correct?

21 A. Correct.

22 Q. November 2005 to March 2009 as
23 district sales manager, you're part of the
24 McKesson U.S. Pharma sales force, correct?

25 A. I had selling responsibilities

1 as a district sales manager, correct.

2 Q. Vice president of sales,
3 March 2009 to January 2012, you're part of
4 the McKesson overall sales force, correct?

5 A. I had selling responsibility,
6 was part of the sales force. The number I
7 gave you earlier about 250 people, I'm
8 including vice presidents of sales.

9 Q. Sure. And I think what you
10 were referencing here was your time in
11 Memphis when you were vice president and
12 general manager as being less involved in the
13 sales process, true?

14 A. I would say that's where I
15 began to take on additional responsibilities
16 outside of sales operating responsibility and
17 I would not include that number in the number
18 I gave you earlier for the sales
19 organization.

20 Q. Okay.

21 A. But I led salespeople; they
22 reported to me or up through me.

23 Q. Understood.

24 And then from April 2015 to
25 August 2017 when you were senior vice

1 president in the northeast region, you were
2 overseeing a sales force then too, right?

3 A. Similar to the general manager.
4 I had broad responsibilities, including
5 overseeing the sales organization.

6 [REDACTED]
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13 MS. HENN: Objection to form,
14 vague.

15 [REDACTED]
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23 BY MR. BOGLE:

24 Q. Because oftentimes the sales
25 representative responsible for a customer

1 would be the most knowledgeable about that
2 customer's business, right?

3 MS. HENN: Objection to form.

4 A. I think they would have a
5 perspective.

6 BY MR. BOGLE:

7 Q. Okay. Because they're the
8 people who frequently actually meet with the
9 customers in person, right?

10 A. That's one of our expectations,
11 yeah, that they are out meeting with the
12 customers.

13 Q. Right. That's how you make
14 sales, right? You go out and talk to people
15 and you meet with people and you try to close
16 a deal, right?

17 A. I think our salespeople have
18 broad responsibilities. We believe that a
19 face-to-face interaction is often a way to
20 help advance some of our joint initiatives,
21 things that we might want to do with our
22 customers, the value of our sales force.

23 Q. Right. And that's how you keep
24 customers too, right, is you continue to
25 interact with them over time as a sales force

1 to make sure that you are actively involved
2 in meeting their needs, right?

3 A. It's a component. I think we
4 keep customers by providing world-class
5 service and meeting their expectations every
6 day. We talk about we earn our customers'
7 business every day.

8 [REDACTED]
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13 MS. HENN: Objection to form.

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MS. HENN: Objection to form,

compound.

1 MS. HENN: Objection to form,
2 vague.

A horizontal bar chart titled "Percentage of respondents who believe the U.S. should take action to address climate change." The chart displays data for three age groups (18-29, 30-49, and 50+) and two genders (Male and Female). The x-axis represents the percentage of respondents, ranging from 0 to 100. The y-axis lists the demographic categories. The bars are color-coded: light blue for Male and dark blue for Female. The data shows that a majority of respondents in all age groups and both genders believe the U.S. should take action to address climate change, with the highest percentages generally found in the 18-29 age group.

Age Group	Gender	Percentage of respondents who believe the U.S. should take action to address climate change
18-29	Male	85%
	Female	88%
30-49	Male	78%
	Female	82%
50+	Male	72%
	Female	75%

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Q. And we're going to talk about

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this a little more in a few minutes, but

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there have been bonus and incentive plans in

8

place at McKesson for the entire time you

9

were involved in the sales force, and

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including up to today, right?

11

MS. HENN: Objection to form.

12

A. We have a sales incentive plan

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for our field sales teams. Different members

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of the team have been covered by that

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differently at points in time, but there is a

16

sales incentive plan.

17

BY MR. BOGLE:

18

Q. Right. Which components of

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that are commissions that can be made,

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portions of that are additional bonuses that

21

can be received, right?

22

MS. HENN: Objection to form,

23

lacks foundation.

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A. There are parts of the

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incentive plan that are tied to different

1 components. Some is for products and
2 services; some is for account performance.
3 BY MR. BOGLE:

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MS. HENN: Objection to form.

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A. I don't agree necessarily, no.

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BY MR. BOGLE:

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MS. HENN: Objection to form.

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Q. When you see significant acts of integrity, is that rewarded in any way for your sales force?

A. We have other areas of recognition. You know, when people go above and beyond, I've personally sent a handwritten note.

Q. Any other way that they're compensated for showing significant integrity?

A. It's a core expectation. I don't believe we have to provide financial incentive to do that.

Q. Okay. Well, for example, with the sales incentive plans, the time you've been in the company, 2002 to present, has there ever been an incentive provided to sales -- the sales force to report suspicious activity of customers as it relates to controlled substances? Has that ever been a component of the plan?

MS. HENN: Objection to form,

1 compound, vague.

2 A. I'm not aware that it's been a
3 specific segment of our sales incentive
4 plans. I think it's been a component of some
5 performance documents.

6 BY MR. BOGLE:

7 Q. What specific incentives would
8 you refer me to that the sales force has been
9 provided for reporting suspicious activity
10 related to controlled substances?

11 MS. HENN: Objection to form,
12 lacks foundation.

13 A. I don't know that I -- I think
14 I stated that I'm not aware that there's ever
15 been a specific component of our incentive
16 plan that called out an expectation to report
17 suspicious activity of controlled substances.

18 BY MR. BOGLE:

19 Q. Okay. So, for example, let me
20 give you this as an example.

21 Can you -- has there ever been
22 a time where the sales force has been
23 instructed, hey, if you report suspicious
24 activity of a customer related to controlled
25 substances and we confirm that it was

1 suspicious, we're going to give you a \$500
2 bonus? Anything like that you can think of?

3 A. No.

4 Q. Okay.

5 A. But I have written a
6 performance document that, under workforce
7 behaviors, adhering to and supporting our
8 regulatory responsibilities is a clear
9 expectation.

10 Q. When did you draft that?

11 A. I would say during my period of
12 time as a vice president of sales and a
13 general manager. I can't say specifically.
14 I'm pretty confident it was a component of
15 mine from time to time, and if it wasn't, I
16 knew clearly the expectation, and I shared
17 that with my team.

18 Q. And that component you're
19 saying included reporting suspicious activity
20 related to controlled substances?

21 A. Again, I believe I phrased it
22 as executing our regulatory responsibilities.

23 Q. Okay. So going back, because
24 McKesson does provide financial incentives to
25 sales representatives, for example, when they

1 increase profitability for the company,
2 right?

3 A. You know, our compensation plan
4 today, you know, it's a complex plan. There
5 are components that could be tied to customer
6 profitability. I don't think a core
7 component of our plan today is directly tied
8 to profitability.

9 At different periods of time
10 we've had different measurements that were
11 attempting to get at that, but...

12 Q. Okay. In -- all right. We'll
13 look at the plans here in a minute.

14 A. Okay.

15 MS. HENN: And we've been going
16 another hour, so this might be a good
17 time for a five-minute break.

18 MR. BOGLE: That's fine.

19 THE VIDEOGRAPHER: We're off
20 the record at 11:13 a.m. This
21 concludes Disc 1.

22 (Recess taken, 11:13 a.m. to
23 11:25 a.m.)

24 THE VIDEOGRAPHER: We are back
25 on the record, 11:25 a.m., beginning

1 of Disc 2.

2 BY MR. BOGLE:

3 [REDACTED]
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9 (McKesson-Cavacini Deposition
10 Exhibit 7 marked.)

11 BY MR. BOGLE:

12 Q. Okay. Mr. Cavacini, see here
13 there's an e-mail on the first page titled
14 RSM Compensation Call.

15 Do you see that at the top?

16 A. I do.

17 Q. Okay. And sent from a Brian
18 Ferreira on March 26th, 2006.

19 Do you see that?

20 A. I do.

21 Q. I'm not going to go through all
22 the recipients here, but you see that you're
23 in the cc line, correct?

24 A. Yes, I do.

25 [REDACTED]

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Q. Okay. And FY07, would that be
fiscal year?

A. Correct.

Q. Okay. And retail sales
manager, that's one of the positions within
the McKesson U.S. Pharma sales force at this
point in time in 2006, right?

A. Yes.

MS. HENN: Objection to form,
lack foundation.

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MS. HENN: Objection to form,

vague.

Horizontal bar chart showing the percentage of respondents for various categories. The categories are listed on the left, and the percentages are shown as horizontal bars on the right. The categories are: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

Category	Percentage
1	85%
2	55%
3	25%
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5	75%
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MS. HENN: Objection to form.

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MS. HENN: Objection to form,

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calls for speculation.

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MS. HENN: Objection to form.

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1. **Introduction**
2. **Background**
3. **Methodology**
4. **Results**
5. **Discussion**
6. **Conclusion**
7. **References**
8. **Appendix**
9. **Notes**
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Figure 1. The effect of the number of trials on the number of correct responses. The number of correct responses was significantly higher for the 10-trial condition than for the 5-trial condition.

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Government	Percentage
Current government	85%
Previous government	15%

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MS. HENN: Objection to form,

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MS. HENN: Objection to form,

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lacks foundation.

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11/11/2016

10/10/2014

Horizontal bar chart showing the percentage of respondents for various categories. The categories are listed on the left, and the percentage values are shown as horizontal bars. The categories are: 1. (100%), 2. (85%), 3. (25%), 4. (100%), 5. (85%), 6. (85%), 7. (100%), 8. (50%), 9. (100%), 10. (85%), 11. (85%), 12. (100%), 13. (85%), 14. (50%), 15. (100%), 16. (85%), 17. (100%), 18. (50%), 19. (100%), 20. (85%), 21. (100%), 22. (50%), 23. (100%), 24. (85%), 25. (100%), 26. (50%), 27. (100%), 28. (85%), 29. (100%), 30. (50%), 31. (100%), 32. (85%), 33. (100%), 34. (50%), 35. (100%), 36. (85%), 37. (100%), 38. (50%), 39. (100%), 40. (85%), 41. (100%), 42. (50%), 43. (100%), 44. (85%), 45. (100%), 46. (50%), 47. (100%), 48. (85%), 49. (100%), 50. (50%), 51. (100%), 52. (85%), 53. (100%), 54. (50%), 55. (100%), 56. (85%), 57. (100%), 58. (50%), 59. (100%), 60. (85%), 61. (100%), 62. (50%), 63. (100%), 64. (85%), 65. (100%), 66. (50%), 67. (100%), 68. (85%), 69. (100%), 70. (50%), 71. (100%), 72. (85%), 73. (100%), 74. (50%), 75. (100%), 76. (85%), 77. (100%), 78. (50%), 79. (100%), 80. (85%), 81. (100%), 82. (50%), 83. (100%), 84. (85%), 85. (100%), 86. (50%), 87. (100%), 88. (85%), 89. (100%), 90. (50%), 91. (100%), 92. (85%), 93. (100%), 94. (50%), 95. (100%), 96. (85%), 97. (100%), 98. (50%), 99. (100%), 100. (85%).

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Row	Bar Length (approx. %)
1	90
2	100
3	50
4	95
5	80
6	95
7	85
8	90
9	10
10	95
11	10
12	95
13	90
14	85
15	95
16	90
17	30
18	90
19	30
20	95
21	30
22	90
23	30
24	95
25	60
26	70
27	40

[illegible]

A horizontal bar chart with 20 rows. Each row consists of a small gray square on the left and a gray bar of varying length on the right. The bars are arranged in a pattern that suggests a sequence or progression, with some bars being longer than others and some having gaps between them.

21 MS. HENN: Objection to form.

22

Category	Percentage
Very good	10%
Good	40%
Not good	50%

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MS. HENN: Objection to form,

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MS. HENN: Objection to form,

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asked and answered, mischaracterizes

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testimony.

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MS. HENN: Objection to form,

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asked and answered.

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MS. HENN: Same objections.

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Q. When it comes to the sales force, U.S. Pharma-wise at McKesson, is the largest group of that sales force the retail sales manager group?

A. As far as numbers, like --

Q. Sure. Yeah, exactly.

A. Yeah, I believe they are the largest field sales organization we have, numbers.

Q. Right.

A. The number I gave you earlier, 120 of the 200 are probably retail sales managers roughly.

Q. Understood.

[REDACTED]

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[illegible]

[illegible]

11/11/2011

11/11/2014



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MS. HENN: Objection to form,

lacks foundation.

A. I think by practice, I would

prefer that we let our regulatory affairs

team make independent judgments based on the

1 information they have and their view of the
2 account.

Row	Label	Bar 1	Bar 2
1	3	Medium	
2	1	Small	Long
3	1	Medium	Long
4	1	Long	
5	1	Long	
6	1	Long	
7	1	Long	
8	1	Long	
9	1	Long	
10	1	Small	

13 MS. HENN: Objection, asked and
14 answered.

A horizontal bar chart titled 'U.S. should take action to address climate change' showing the percentage of respondents who believe the U.S. should take action to address climate change. The chart is broken down by age group (18-29, 30-49, 50-69, 70+) and gender (Male, Female). The y-axis lists the age groups and genders, and the x-axis shows the percentage from 0 to 100. The bars are colored in shades of gray.

Age Group	Gender	Percentage
18-29	Male	15
18-29	Female	15
30-49	Male	15
30-49	Female	15
50-69	Male	15
50-69	Female	15
70+	Male	15
70+	Female	15

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MS. HENN: Objection to form.

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MS. HENN: Objection to form.

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MS. HENN: What page is it?

1 A. And I'm sorry, I put the
2 document away again. It was .6?

3 BY MR. BOGLE:

4 Q. Yes, sir, you're correct about
5 that.

6 A. Okay.

7 Q. This is Exhibit 9, .6 is the
8 page.

9 MS. HENN: Thank you.

10 BY MR. BOGLE:

11 Q. So you know, for example, in
12 2010, 2011, many of the opioid products
13 available on the market were generics, right?

14 A. You know, hard for me to say
15 what I knew in FY10, when I came to that
16 awareness. I am aware that many controlled
17 substances are offered generically.

18 [REDACTED]
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23 MS. HENN: Objection to form,
24 mischaracterizes the document.

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MS. HENN: Objection to form,
lacks foundation.

MS. HENN: Objection to form,

1 lacks foundation.

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Response	Percentage
Yes, the U.S. should take action to reduce greenhouse gas emissions	92%
No, the U.S. should not take action to reduce greenhouse gas emissions	8%

Response	Percentage
Yes, the U.S. should take action to reduce greenhouse gas emissions	90%
No, the U.S. should not take action to reduce greenhouse gas emissions	10%

[illegible]

Government	Percentage
Current government	85%
Previous government	15%

Response	Percentage
Yes, the president is a threat to the country	85%
No, the president is not a threat to the country	15%

Response	Percentage
Not responsible	10%
Somewhat responsible	20%
Somewhat responsible	30%
Responsible	40%

Response	Percentage
Yes, the U.S. should take action to reduce global warming	83%
No, the U.S. should not take action to reduce global warming	17%

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MS. HENN: Objection to form,
calls for speculation.

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MS. HENN: Objection to form.

THE WITNESS: I'm sorry.

MS. HENN: Go ahead.

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MS. HENN: Objection to form.

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MS. HENN: Objection to form,

17

lacks foundation.

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MS. HENN: Counsel, I just note

22

that Exhibit 10 looks like it was

23

printed without the normal

24

confidentiality stamp. I'm not sure

25

why that would be.

1 MR. BOGLE: That was
2 unintentional if it was. I'm happy to
3 have you say it's confidential.

4 MS. HENN: I would just ask the
5 court reporter to note that Exhibit 10
6 should have a confidential and
7 potentially highly confidential stamp
8 on it.

9 MR. BOGLE: That's fine. That
10 was unintentional, I can assure you of
11 that part.

12 MS. HENN: Understood.

13 BY MR. BOGLE:

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Response	Percentage
Yes, the U.S. should take action to reduce greenhouse gas emissions	14
No, the U.S. should not take action to reduce greenhouse gas emissions	86

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MS. HENN: Objection to form,

vague.

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MS. HENN: Objection to form.

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MS. HENN: Objection,

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mischaracterizing testimony.

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MS. HENN: Objection to form.

Mischaracterizing the testimony.

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BY MR. BOGLE:

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MS. HENN: Objection, lacks
foundation.

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[illegible]

A horizontal bar chart with 25 categories on the y-axis, labeled 1 through 25. The x-axis represents percentages from 0 to 100. Each category has a gray horizontal bar. Categories 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, and 25 have bars of varying lengths. Categories 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, and 25 have a small black square marker at the end of their bars. Categories 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, and 25 have bars of varying lengths.

Category	Percentage (%)
1	85
2	75
3	72
4	75
5	75
6	85
7	85
8	85
9	95
10	70
11	82
12	55
13	82
14	80
15	82
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MR. BOGLE: I'm about to shift
gears a little bit. I don't know if
it's a decent lunch break time. I can
shift gears if you want. It doesn't
matter.

MS. HENN: Let's go ahead and
break for lunch.

THE WITNESS: Whatever you
think is best.

THE VIDEOGRAPHER: We're off

1 the record at 12:27 p.m. This
2 concludes Disc 2.

3 (Recess taken, 12:27 p.m. to
4 1:04 p.m.)

5 THE VIDEOGRAPHER: We are back
6 on the record at 1:04 p.m., beginning
7 of Disc 3.

8 BY MR. BOGLE:

9 Q. Mr. Cavacini, we had stopped
10 before lunch talking about the bonus or sales
11 incentive plans over time. Do you recall
12 that discussion generally?

13 A. I do, yes.

14 Q. Okay. Now, in addition to
15 motivating sales representatives with those
16 sales incentive plans, you also personally
17 would send e-mails sort of encouraging your
18 sales representatives over time to be as
19 aggressive as possible in their sales tactics
20 to get and keep new customers, right?

21 MS. HENN: Objection to form.

22 A. I think it's reasonable to
23 assume that I would communicate with my team
24 to try and reinforce behaviors and motivate.

25 ///

1 BY MR. BOGLE:

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8 BY MR. BOGLE:

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Q. You see here, Mr. Cavacini, you
10 have an e-mail from you dated February 8,
11 2010 to a group of individuals.

12 Do you see that?

13 A. I do.

14 Q. This group of individuals,
15 would this generally be the sales force you
16 were supervising at that point in time?

17 A. Looks to be the team of RSMs,
18 yes.

19 Q. Okay. And the subject is Time
20 Magazine on CAH. CAH being Cardinal Health
21 in this instance, right?

22 A. That's how I would take it.

23 Q. For example, if you see on the
24 second page there's an e-mail from a Bill
25 Roehl and the body of that says: Time

1 Magazine article on changes at Cardinal
2 referred to on today's call.

3 Do you see that?

4 A. I do.

5 Q. And Cardinal Health is one of
6 your main competitors at McKesson when it
7 comes to distribution, right?

8 A. They're another competitive
9 distributor.

10 Q. And a large one at that, right?
11 They're one of your most significant
12 competitors, right?

13 A. I think they're a significant
14 player in the market, and depending on
15 market, I mean, that relevance might be
16 different in different geographies, but they
17 are a significant player.

18 Q. Okay. If you look at this
19 e-mail you sent, you say: Team, interesting
20 article on CAH. Looks like they feel they
21 have their house in order and are ready to
22 get back in the fight.

23 When you say they have their
24 house in order, what are you referring to?

25 A. I don't know. The original

1 article isn't here. I don't remember the
2 2010 Time Magazine, or I'd be speculating as
3 to what my thought process was back then.

4 [REDACTED]
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13 Q. I'm going to get to that. I'm
14 going one by one.

15 The New Castle market covers
16 portions of Ohio, correct?

17 A. New Castle would ship eastern
18 Ohio.

19 Q. Including Summit and Cuyahoga
20 Counties, true?

21 MS. HENN: Objection to form,
22 lacks foundation.

23 A. I'm not sure of the specific
24 geographies of Ohio. I would say, you know,
25 the Cleveland area and suburbs.

1 BY MR. BOGLE:

2 Q. Right.

3 A. Eastern Ohio.

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Response	Percentage
Yes, the U.S. should take action to reduce greenhouse gas emissions	85%
No, the U.S. should not take action to reduce greenhouse gas emissions	15%

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MS. HENN: Objection to form.

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A. I mean, they were a team of independent contributors. I think they're -- was individual and varied from time to time and maybe not as much as I would have liked, but I do think they took my directions and input seriously.

Q. Okay. John Kuczynski, that was one of your individuals you supervised on the sales force around this time in 2010, right?

A. John is an RSM in our New Castle markets primarily.

Q. Right. So during, for example, this e-mail we were looking at is from 2010, and he's listed as one of the recipients, right?

1 A. Yeah. I was the vice president
2 of sales and during that period of time had
3 responsibility for the New Castle market and
4 John was copied on the e-mail.

5 Q. Is he an employee at McKesson
6 that, during your time working with him, you
7 felt listened to your directives and took
8 them to heart?

9 A. I think John always tried to do
10 his best to represent McKesson and serve his
11 customers in the territory.

A horizontal bar chart showing the percentage of respondents for each age group across five categories: 'Don't know', 'Not a good idea', 'A good idea', 'A very good idea', and 'A great idea'. The y-axis lists age groups: 12-17, 18-24, 25-34, 35-44, 45-54, 55-64, 65-74, 75-84, 85+, and 90+. The x-axis represents percentages from 0% to 100% in 10% increments. The bars are color-coded: light blue for 'Don't know', light green for 'Not a good idea', light orange for 'A good idea', light purple for 'A very good idea', and light pink for 'A great idea'.

Age Group	Don't know	Not a good idea	A good idea	A very good idea	A great idea
12-17	10%	10%	10%	10%	10%
18-24	10%	10%	10%	10%	10%
25-34	10%	10%	10%	10%	10%
35-44	10%	10%	10%	10%	10%
45-54	10%	10%	10%	10%	10%
55-64	10%	10%	10%	10%	10%
65-74	10%	10%	10%	10%	10%
75-84	10%	10%	10%	10%	10%
85+	10%	10%	10%	10%	10%
90+	10%	10%	10%	10%	10%

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MS. HENN: Objection to form.

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MS. HENN: Objection to form,

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calls for speculation.

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1 BY MR. BOGLE:

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MS. HENN: Same objection.

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MS. HENN: This is --

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MR. BOGLE: Go ahead.

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MS. HENN: Objection to form.

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MS. HENN: Objection to form.

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5 BY MR. BOGLE:

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Q. When it comes to opioid products that McKesson sells, is it the practice of McKesson to only sell opioid products that are FDA approved?

A. I'm not sure. We sell 20,000s of -- over 20,000 different products in our distribution centers. I'm not sure of how we decide what to stock and what not to stock.

Q. Okay. Let me ask you this. Let me back up.

You understand, first of all, that opioids in all forms are only available via prescription, right, in this country at least?

A. I mean, my understanding is that all prescription medications, including controlled substances and opioids, are available by prescription.

Q. Right. And that all substances that are available only via prescription in

1 this country have to be FDA approved.

2 Do you understand that?

3 A. That's my general
4 understanding.

5 Q. Okay. So then I go back to my
6 earlier question, which is -- and I'll
7 rephrase it a different way: Do you ever
8 recall any periods in time where McKesson was
9 selling opioid products that were not FDA
10 approved?

11 A. I'm not aware.

12 Q. Okay. Do you understand the
13 purpose behind, when it comes to opioids
14 specifically, only selling those that are FDA
15 approved?

16 A. My understanding that all
17 medications need to be approved by the FDA
18 before they're commercially available to
19 patients and prescribers, so I think it's to
20 protect the population.

21 [REDACTED]

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MR. RALEY: Is there a Bates

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Q. And McKesson OneStop Generics,

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I think we talked about that a little bit

1 before, that's the sort of ordering program
2 for generic products at McKesson, right?

3 A. Just to be clear, it's our
4 source program or our proprietary generics
5 program. The ordering program that we talked
6 about, how customers interface with us was
7 called McKesson Connect.

8 Q. You're right, you did make that
9 distinction.

Reason for Leaving	Percentage of Respondents
10. The company was not growing	10%
9. The company was not profitable	9%
8. The company was not successful	8%
7. The company was not innovative	7%
6. The company was not competitive	6%
5. The company was not ethical	5%
4. The company was not sustainable	4%
3. The company was not socially responsible	3%
2. The company was not environmentally friendly	2%
1. The company was not a good fit for my values	1%

[illegible]

1 [REDACTED]

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7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

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24 MS. HENN: Objection to form,

25 compound.

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MS. HENN: Asked and answered,
objection.

Go ahead.

MS. HENN: Objection to form.

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MS. HENN: Objection to form.

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12 MS. HENN: Objection to form.

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19 MS. HENN: Objection, asked and

20 answered.

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Q. Okay. In 2010, Pennsylvania
would have been within your sales region,
right?

A. Yes. I mean, the eastern half
of Pennsylvania, absolutely during 2010.
Yeah, all of 2010, I would have had -- I'm
sorry, I would have had responsibility for
Pennsylvania, coming out of both New Castle
and Delran.

[illegible]

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MS. HENN: Objection to form,

lacks foundation.

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This image shows a single sheet of white paper with horizontal blue or grey ruling lines. A vertical margin line is positioned on the left side, creating a narrow left margin. The paper appears to be a standard notebook page or a sheet of stationery. There are no markings, text, or drawings on the page.

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[REDACTED]

[REDACTED]

Q. Right. And so just kind of understanding how e-mails work, once you get that one, you get to see all the e-mails in the chain below it, right?

A. I mean, I would -- I -- it appears these two e-mails were linked together, if that's the chain you're referencing.

[illegible]

1 [REDACTED]

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8 MS. HENN: Objection to form,

9 lacks foundation.

10 [REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

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[REDACTED]

[REDACTED]

19 MR. BOGLE: Move to strike as

20 nonresponsive.

21 BY MR. BOGLE:

22 [REDACTED]

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MS. HENN: Objection to form.

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BY MR. BOGLE:

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MS. HENN: Objection to form.

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MS. HENN: Objection to form,

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MS. HENN: Objection, asked and

19

answered.

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1 MS. HENN: Objection to form,
2 lacks foundation.

[illegible]

21 MS. HENN: Objection to form,
22 lacks foundation.

23

Bar	Length (approx. %)
1	10
2	90
3	40

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[illegible]

[illegible]

Age Group	All respondents	People who have been vaccinated	People who have not been vaccinated	People who have been vaccinated and are also wearing a mask	People who have not been vaccinated and are not wearing a mask
18-24	10%	10%	10%	10%	10%
25-34	10%	10%	10%	10%	10%
35-44	10%	10%	10%	10%	10%
45-54	10%	10%	10%	10%	10%
55-64	10%	10%	10%	10%	10%
65-74	10%	10%	10%	10%	10%
75+	10%	10%	10%	10%	10%

19 Q. Now, this customer, Martella's,
20 are you aware that just in the past few
21 months the owner of that pharmacy was
22 indicted for diversion of opioids?

23 A. I'm not aware of the specific
24 timing of when I became aware, but I am aware
25 that the store is facing action and has some

1 charges against it, yes.

2 Q. Right. And you know those
3 charges are specifically related to
4 allegations that they've been, for years,
5 diverting opioids, right?

6 A. I would like to see a copy of
7 the complaint and allegations against the
8 store.

9 Q. Okay.

10 A. I'm not --

11 Q. Okay. Let's look at a couple
12 of things on this then. I'm going to hand
13 you first what I'm marking as Exhibit 18,
14 which is 1.1905. This is a public document,
15 so no Bates number.

16 (McKesson-Cavacini Deposition
17 Exhibit 18 marked.)

18 BY MR. BOGLE:

19 Q. There you go, sir.

20 A. Thank you.

21 Q. You see here this is a press
22 release from November 2nd, 2018 from the
23 Department of Justice.

24 Do you see that?

25 A. I do, yes.

1 Q. Okay. And the title is
2 Johnstown Pharmacist Charged in 109-Count
3 Indictment with Illegally Creating Bogus
4 Prescriptions and then Dispensing the Drugs.

5 Do you see that reference?

6 A. Is that -- I don't. I'm sorry.

7 Q. Yeah. It's the title. It's
8 sort of the bolded title there.

9 A. Oh, I'm sorry.

10 Q. I was just reading the bolded
11 title to you.

12 A. Oh, bogus prescriptions and
13 then dispensing them.

14 Q. Yeah. And so it goes on to
15 say: A Johnstown, PA pharmacist has been
16 indicted by a federal grand jury in
17 Pittsburgh on charges of dispensing and
18 distributing controlled substances and
19 conspiring to distribute and dispense
20 controlled substances, United States Attorney
21 Scott W. Brady announced today.

22 Then skipping down to the third
23 paragraph, it says: According to the
24 indictment presented to the court, Martella
25 owned and operated Martella's Pharmacy

1 located on Franklin Street in Johnstown.

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 Q. Okay. The indictment alleges
16 that Martella, a pharmacist, conspired with
17 Dr. Peter James Ridella, who previously
18 pleaded guilty, and an individual named as
19 J.R., to create and submit unlawful
20 prescriptions for oxycodone; oxycodone and
21 acetaminophen, also known as Percocet;
22 oxymorphone, also known as Opana; morphine
23 sulfate, also known as MS Contin; and
24 hydrocodone and acetaminophen, also known as
25 Vicodin, and then unlawfully dispensed those

1 controlled substances to other persons.

2 Do you see that?

3 A. I do.

4 Q. It says: The law provides for
5 a maximum per count sentence of 20 years in
6 prison and a fine of a million dollars or
7 both.

8 Do you see that there?

9 A. I do.

10 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

14 MS. HENN: Objection, lack of
15 foundation.

16 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

20 BY MR. BOGLE:

21 Q. All right. I'm going to hand
22 you what I'm marking as Exhibit 19, which is
23 1.1904, and again, this is a nonproduction
24 document so no Bates number.

25 (McKesson-Cavacini Deposition

1 Exhibit 19 marked.)

2 BY MR. BOGLE:

3 Q. So what I have for you here is
4 the actual indictment for Mr. Martella. You
5 see this is -- the stamp filed date on this
6 is October 30, 2018. Do you see that kind of
7 in the right-hand side of the page?

8 A. 10/30/18.

9 Q. Yeah. Either spot says the
10 same thing.

11 A. Fine.

12 Q. So getting to the issue of how
13 long this conduct had been ongoing per the
14 indictment, if you can go to the last page of
15 the document, page 10.

16 You see here in the second
17 paragraph it indicates that the illegal
18 dispensing of all the opioid products I just
19 read to you occurred from April 2011 and
20 continued thereafter to in or around
21 June 2016.

22 You see that?

23 A. I do see where it says from in
24 and around April 11 to June 2016.

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MS. HENN: Objection, lacks

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foundation.

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MS. HENN: Objection to form,

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calls for speculation.

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Q. Okay. And we've talked about

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sales activities from the sales force itself

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in selling McKesson as a company and the

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products they offer, but there's another

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component to sales and marketing at McKesson

12

that includes marketing manufacturers'

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products to customers, right? Specific

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marketing of manufacturers' products to

15

pharmacy customers, right?

16

A. I mean, I'm aware of programs

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where we work with manufacturers to provide

18

information and access to our pharmacy

19

customers, deliver messaging. So if that's

20

marketing, yes.

21

Q. Yeah. And you're aware that

22

over the time you've been with the company,

23

there have been various deals struck for

24

opioid products for the sales and marketing

25

arms of McKesson to market for manufacturers'

1 opioid products, right?

2 MS. HENN: Objection to form.

3 A. You know, I don't recall, and I
4 don't know that I've been involved in the
5 negotiations of those specific programs and
6 what programs might be involved, what
7 products might be involved in those programs.

8 BY MR. BOGLE:

9 Q. Yeah. And we'll get to the
10 specific marketing arrangements. I just want
11 to just start with the preface that you
12 understand that these sort of marketing
13 agreements have been made for opioid products
14 while you've been at the company, right?

15 MS. HENN: Objection --

16 BY MR. BOGLE:

17 Q. You've been privy to that
18 information, haven't you?

19 MS. HENN: Objection to form,
20 vague and compound.

21 A. I'm not sure that I could list
22 any of the products that were ever included
23 in any of the campaigns that we did with our
24 pharmacy customers.

25 ///

1 BY MR. BOGLE:

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MS. HENN: And we're again at
an hour, so if you want to take a
break.

MR. BOGLE: I'm on a new
subject. That's fine.

MS. HENN: Yeah.

THE VIDEOGRAPHER: Okay. We're
off the record at 2:06 p.m.

(Recess taken, 2:06 p.m. to
2:15 p.m.)

THE VIDEOGRAPHER: Back on the
record at 2:15 p.m.

BY MR. BOGLE:

Q. Okay. Mr. Cavacini, we had
left off, as I recall it, starting a
discussion about McKesson's activity in
marketing opioid products for manufacturers.

Do you recall us talking about
that generally?

1 A. I remember you asking questions
2 along that line.

[illegible]

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Q. Okay. And your job as of that
Frame would have been as vice president,
al manager in Memphis, right?

A. Correct.

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Q. And the ISMs are the

independent pharmacies, is that right,

independent, small-mediums?

A. Well, ISMC, right, would be

independent small-medium chains, our

community pharmacy customers.

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Q. So on this -- well, first off,
Susan Petrus, what was her job role at this
time?

A. Susan currently leads, you
know, our sales effectiveness and customer
care groups. I believe she had the same role
at the time. I don't believe her
responsibilities have changed much in the
last five to six years.

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Category	Percentage
1	85
2	95
3	65
4	85
5	80
6	85
7	85
8	85
9	85
10	85
11	65
12	80
13	75
14	80
15	80
16	35
17	15
18	75
19	85
20	95
21	55
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23	70
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32	85
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█ [REDACTED]

[REDACTED]

█ [REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

█ [REDACTED]

MS. HENN: Objection, asked and

answered.

Go ahead.

█ [REDACTED] █

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

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MS. HENN: Objection, lacks

foundation.

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MS. HENN: Objection to form.

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BY MR. BOGLE:

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Q. Were you aware that well prior
to 2013 the DEA had a longstanding view that
promotion of controlled substances should not
be done by distributors?

MS. HENN: Objection to form,
lacks foundation.

A. I'm not aware of the DEA's
position, no.

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MS. HENN: Same objection.

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BY MR. BOGLE:

10

Q. Does McKesson currently engage

11

in promotional activities for opioid

12

manufacturers?

13

A. I don't know.

14

Q. Is that not under your umbrella

15

as COO? Would the people doing that not

16

report up to you ultimately?

17

A. No. Our brand management teams

18

and our marketing teams do not report up

19

through me.

20

Q. Who do they report up through?

21

A. Marketing, our U.S. Pharma

22

marketing team reports to Wendy Brauner, and

23

I believe brand and product management

24

currently reports to Chris Dimos.

25

Q. Can you spell that last name on

1 that one?

2 A. Dimos, D-I-M-O-S.

3 Q. Are you familiar with the
4 concept of chargebacks?

5 A. Generally, yes. Not an expert.

6 Q. Okay. I'm sorry. Make sure
7 you're finished with your answer.

8 What is your working
9 understanding of what a chargeback is?

10 A. That there can be a list price
11 and a contract price for a product, and then
12 the chargeback reconciles the difference
13 between the list price and what is actually
14 paid.

15 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

19 MS. HENN: Objection to form,
20 vague.

21 THE WITNESS: Could you repeat
22 the question.

23 MR. BOGLE: Yeah.

24 BY MR. BOGLE:

25 Q. So, for example -- let me back

1 up and start from a different spot.

2 A. Okay.

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Q. Okay. We had talked a little earlier in general terms about the opioid epidemic, and I wanted to talk more specifically with you about that.

Do you have an awareness that more than 350,000 people have died due to opioid overdoses since 1999?

MS. HENN: Objection, lacks foundation.

A. I don't know that I'm familiar with that specific number.

BY MR. BOGLE:

Q. Okay. I'm going to hand you what I'm marking as Exhibit 22, which is 1.2060. This is a public document, so no Bates number.

(McKesson-Cavacini Deposition Exhibit 22 marked.)

1 MR. BOGLE: Sorry. They tell
2 me to bring a certain number, so I'm
3 trying to comply.

4 MS. HENN: You can take that
5 back to Florida.

6 MR. BOGLE: I'm trying to
7 comply.

8 BY MR. BOGLE:

9 Q. Okay. Mr. Cavacini, what I
10 just handed you is titled Red Flags and
11 Warning Signs Ignored: Opioid Distribution
12 and Enforcement Concerns in West Virginia
13 prepared by the Energy and Commerce
14 Committee, Majority Staff, of the House of
15 Representatives in Congress.

16 Do you see that?

17 A. I do.

18 Q. Okay. And it's dated
19 December 19, 2018. Do you see that at the
20 bottom?

21 A. I do.

22 Q. Have you seen this report?

23 A. I don't believe I have, no.

24 Q. Okay. Is there any system at
25 McKesson for individuals like yourself,

1 high-ranking senior individuals, to receive
2 information related to opioid-related news as
3 it comes out?

4 A. Not a structured or formal
5 process that I'm aware of, no.

6 Q. Okay. I guess what I'm asking
7 is: Do you guys have any service that you
8 sign up for that flags new articles or
9 publications like this related to opioids
10 that are then sent up to senior management?

11 A. Not that I'm aware of.

12 Q. Okay. Let's go to page .5 of
13 this document. There's an executive summary
14 here on this page. The first line says: The
15 opioid epidemic is the worst drug crisis in
16 America's history. According to the Centers
17 for Disease Control and Prevention, more than
18 351,000 lives have been lost to opioid
19 overdoses since 1999, with no signs of
20 abating. Far more people die from the misuse
21 of opioids in the United States each year
22 than from road traffic accidents or violence.
23 Public health officials are alarmed that the
24 opioid problem has helped drive a decline in
25 U.S. life expectancy at a time frame when

1 life expectancy is improving in many places
2 around the world.

3 Do you see that?

4 A. I do.

5 Q. Okay. So let's handle these
6 sort of one by one. The stat of more than
7 350,000 people having died from drug opioid
8 overdoses since 1999, is that a statistic you
9 were aware of prior to today?

10 A. I don't know that I could have
11 quoted that number prior to seeing it here.

12 Q. How about that more people die
13 from opioids every year than traffic
14 accidents or violence, is that something you
15 were familiar with?

16 A. I don't believe I had heard
17 that statement before.

18 Q. How about that the opioid
19 epidemic has helped drive a decline in U.S.
20 life expectancy, is that something you were
21 aware of?

22 A. Again, I don't believe I had
23 heard that stated that way.

24 Q. Okay. But you are aware that,
25 for example, since 1999, there has been a

1 consistent increase in opioid deaths in this
2 country, right?

3 MS. HENN: Objection, lacks
4 foundation.

5 A. I'm not 100% sure of the exact
6 timeline of the studies I have seen, but I
7 have seen statistics that indicate opioid
8 abuse and deaths are rising.

9 BY MR. BOGLE:

10 Q. Okay. And have you taken a
11 look at any of the McKesson sales information
12 of opioids, for example, in the last eight to
13 ten years as to whether that number has been
14 going down, steady, increasing over time?

15 A. I haven't.

16 Q. Okay. Is that information that
17 McKesson collects to look at by anyone that
18 you're aware of?

19 MS. HENN: Objection to form.

20 A. I'm not sure. I haven't seen
21 our sales broken out and categorized that
22 way.

23 BY MR. BOGLE:

24 [REDACTED]
[REDACTED]

Category	Percentage
1	75%
2	80%
3	20%
4	10%
5	85%
6	80%
7	65%
8	85%
9	80%
10	80%
11	75%
12	80%
13	50%
14	10%
15	15%
16	85%
17	80%
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99	80%
100	80%

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MS. HENN: Objection, lacks

foundation.

MS. HENN: Objection to form.

1 BY MR. BOGLE:

2 [REDACTED]

[REDACTED]

4 MS. HENN: Lacks foundation.

5 [REDACTED]

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14 MS. HENN: Objection, lacks

15 foundation.

16 [REDACTED]

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MS. HENN: Objection, lacks

4

foundation.

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MS. HENN: Objection to form,

24

lacks foundation.

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[REDACTED]

Age Group	Percentage
1	100%
2	95%
3	85%
4	95%
5	80%
6	65% - 100%
7	90%
8	15% - 100%
9	100%
10	100%
11	50% - 65%
12	25%
13	15% - 70%
14	15% - 30%

15 Q. Has there ever been any
16 discussion that you've been privy to at
17 McKesson of capping the number of opioid
18 shipments made to the customers in this
19 country at a certain level every year?

20 MS. HENN: Objection to form.

21 A. That McKesson cap it?

22 BY MR. BOGLE:

23 Q. Uh-huh. Right. That you set a
24 certain quota at which you don't exceed under
25 any circumstances in a given year for

1 opioids. Has that ever been discussed?

2 A. My understanding is that the
3 DEA sets the quota for the number of products
4 that can be manufactured, and they adjust
5 that number each year. I don't recall that
6 I've ever been part of a conversation in
7 McKesson to set a quota or a cap.

8 Q. Yeah, so I'm not talking with
9 the DEA; I'm talking about McKesson. I'm
10 talking about are you aware of any discussion
11 within McKesson of saying, listen, we
12 understand the opioid epidemic is getting
13 worse and worse and worse out there. One way
14 that we can help that is to ship less
15 opioids, and we're going to set a cap on
16 ourselves to make sure in a given year we
17 don't ship over a certain number.

18 Are you aware of any
19 discussions like that?

20 MS. HENN: Objection to form.

21 A. I think about these products,
22 and these are, you know, FDA-approved
23 medications that provide a legitimate medical
24 purpose for patients that are in need, and
25 our job is to fill orders from pharmacies

1 that are theoretically pursuant to
2 prescriptions that were written by doctors
3 and presented in a pharmacy.

4 No, I've never been part of a
5 conversation around a cap and would be
6 concerned about the impact of patient care
7 and relationship between a doctor and a
8 patient and a pharmacist and a patient.

9 BY MR. BOGLE:

10 Q. Do you have any understanding
11 of whether there's even legitimate efficacy
12 as far as pain and pain reduction for
13 opioids?

14 MS. HENN: Objection.

15 BY MR. BOGLE:

16 Q. Have you ever seen any efficacy
17 profile of the drug?

18 MS. HENN: Objection to form,
19 lacks foundation.

20 A. I'm not a physician or a
21 pharmacist. Those are decisions that are
22 made between healthcare professionals.

23 BY MR. BOGLE:

24 Q. Right. And that's what --
25 you're talking about patient care and making

1 sure patients get what they need. I'm just
2 asking what you know about the efficacy of
3 the drug -- class of drugs.

4 A. My understanding is that these
5 are legitimate, legal, approved medications
6 and many patients, you know, benefit from
7 them.

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19 A. No, I said clearly I'm not a

Age Group	Percentage
20	95%
21-25	15%
26-30	85%
31-35	100%
36-40	90%
41-45	100%
46-50	100%
51-55	100%
56-60	100%
61-65	100%
66-70	100%
71-75	100%
76-80	100%
81-85	100%
86-90	100%
91-95	100%
96-100	100%

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MS. HENN: Objection --

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BY MR. BOGLE:

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MS. HENN: Objection to form,

8

lacks foundation.

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BY MR. BOGLE:

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MS. HENN: Same objections.

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Q. Okay. But you -- McKesson --

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when I say you, I don't mean you,

24

Mr. Cavacini. You, the McKesson Corporation,

25

can make decisions on how much of any product

1 they are willing to ship, right? That's
2 within the company's purview to decide,
3 right?

4 MS. HENN: Objection to form,
5 asked and answered.

6 A. But I think it is a balance
7 between making sure that these products are
8 available to patients who need them when they
9 need them, all the medications that we
10 provide.

11 You know, we are a distributor
12 and a logistics company that see orders from
13 pharmacies and pharmacists pursuant to
14 prescriptions. I don't think we should be
15 making clinical decisions. Under the --

16 BY MR. BOGLE:

17 Q. Well -- go ahead. Go ahead.
18 No.

19 A. Under the Controlled Substances
20 Act, we have a responsibility to make sure
21 that we have an effective program to guard
22 against controls and that we have a system to
23 alert orders that deviate in size, pattern
24 and frequency.

25 Q. Okay. And do you dispute that

1 McKesson has done a poor job over the last 10
2 to 15 years of ensuring it complies with the
3 Controlled Substances Act in that regard?

4 MS. HENN: Objection to form,
5 lacks foundation.

6 A. I don't agree that we've done a
7 poor job.

8 BY MR. BOGLE:

9 Q. Okay. Now, you're aware that
10 the state of Ohio specifically has been hit
11 hard by the opioid epidemic, right?

12 A. I'm aware of reports about the
13 impact on communities all over the country,
14 specifically parts of Ohio and West Virginia
15 and Kentucky and Tennessee where I used to
16 live, yes.

17 Q. And are you aware that the --
18 Ohio has ranked in the top ten in diversion
19 of opioids over time?

20 MS. HENN: Objection to form,
21 lacks foundation.

22 A. I don't believe I'm aware of
23 that statistic.

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THE WITNESS: It's stapled

funny.

MR. BOGLE: Yeah, I don't know

why they stapled it that way. Sorry.

BY MR. BOGLE:

Q. If you go to page -- I want to
look at this PowerPoint deck that's attached
to this e-mail, so if you go to page --

A. If I could just have a quick
second. I just want to read it.

Q. Yeah. Just let me know when
you're ready.

A. Okay. Thank you.

(Document review.)

A. Okay.

BY MR. BOGLE:

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MS. HENN: Objection to form,
lacks foundation.

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[REDACTED]

MS. HENN: Objection to form,
lacks foundation and mischaracterizes
the document.

[REDACTED]

[REDACTED]

BY MR. BOGLE:

Q. Are you aware that in Ohio the
epidemic has reached a state where the state
of Ohio has had to purchase death trailers
for people who have suffered opioid overdoses
and deaths?

A. I believe I became aware of
that recently.

Q. Okay. How did you become aware
of that?

A. I was shown a document in prep
for today.

Q. Okay. So I'm going to hand you
what's marked as Exhibit 25 which is 1.1453,
no Bates number because it's a public
document.

A. Thank you.

1 (McKesson-Cavacini Deposition

2 Exhibit 25 marked.)

3 BY MR. BOGLE:

4 Q. Do you recognize this as the
5 document you've recently seen in preparation
6 for the deposition?

7 A. Appears to be, yes.

8 Q. Okay. And the document's from
9 an article dated March 14, 2017, and it's
10 titled Too Many Bodies in Ohio Morgue, so
11 Coroner Gets Death Trailer.

12 Do you see that?

13 A. Appears to be the title of the
14 article.

15 Q. Okay. Did you actually read
16 the article in its totality?

17 A. I believe I became familiar
18 with it. I don't believe I read every part
19 of the document, no.

20 Q. Okay. Well, you see on the
21 first page there's a trailer that says
22 Disaster Response, Ohio Department of Health.

23 Do you see that on the first
24 page there?

25 A. There's a picture of a trailer,

1 yes.

2 Q. And in the first paragraph in
3 the letter -- or in the article it says:
4 It's mute testimony to the opioid addiction
5 plague that has been ravaging Ohio - a
6 20-foot long air conditioned trailer with
7 room for 18 bodies.

8 Do you see that?

9 A. I do, yes.

10 Q. And then on page .4, looking at
11 the fourth sort of paragraph here where it
12 says: Coroners in the counties of.

13 Do you see that?

14 A. I do.

15 Q. It says: Coroners in the
16 counties of Ashtabula and Cuyahoga (which is
17 where Cleveland is located) have had to
18 deploy the trailers when their morgues became
19 too jammed, he said.

20 The medical examiner in Summit
21 County (where Akron is located) asked the
22 Ohio Health Department to send one over last
23 summer when there was a spike in drug
24 overdoses, the Akron Beacon Journal reported.

25 Do you see that?

1 A. I do.

2 Q. And then if you look down, the
3 next-to-the-last paragraph on that page says:
4 But the situation in rust belt states like
5 Ohio, where the drug overdose rate in 2015
6 (the most recent federal figures available)
7 was 29.9 per 100,000 people, is especially
8 dire.

9 Do you see that?

10 A. I do, yes.

11 Q. So when you read this, did this
12 cause you some concern?

13 A. How can you not feel concerned
14 and pain when you read about addiction and
15 the consequences of it.

16 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

22 MS. HENN: Objection to form,
23 lacks foundation.

24 [REDACTED]
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MS. HENN: Same objection.

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MS. HENN: Objection to form,
lacks foundation.

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MS. HENN: Objection, lacks

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MS. HENN: Objection, lacks

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4 BY MR. BOGLE:

5 [REDACTED]

[REDACTED]

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9 MS. HENN: Objection to form,

10 vague.

11 [REDACTED]

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18 MS. HENN: Objection to form.

19 [REDACTED]

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MS. HENN: Objection to form.

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MS. HENN: Objection to form,

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asked and answered, vague.

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MS. HENN: Objection to form,

asked and answered.

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MS. HENN: Objection to form,

calls for a legal conclusion.

1 MS. HENN: Objection to form.

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[REDACTED]

[REDACTED]

[REDACTED]

9 MS. HENN: Objection to form.

10 [REDACTED]

[REDACTED]

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[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

18 Q. Do you have a sense that people
19 in the United States have a greater need for
20 opioids than anybody else in the country --
21 or anybody else in the world?

22 MS. HENN: Objection to form,
23 calls for speculation.

24 A. I'm not aware.

25 ///

1 BY MR. BOGLE:

2 Q. But you do know that almost all
3 the opioids utilized in the world are
4 utilized in the United States though, right?

5 MS. HENN: Objection, lacks
6 foundation.

7 A. Again, I don't know the
8 specifics. I've heard trends around
9 dispensing and prescribing patterns in the
10 U.S. relative to other markets.

11 BY MR. BOGLE:

12 Q. If we can go back to
13 Exhibit 1.2060. I don't have the
14 cross-reference number. It's the big
15 document I gave you the -- that one, the E&C
16 document.

17 MS. HENN: It's Exhibit 22.

18 MR. BOGLE: Exhibit 22, okay.

19 BY MR. BOGLE:

20 Q. All right. So I'm going to
21 page .22 here in this document. So this is
22 under section Origins of the Modern Opioid
23 Epidemic.

24 Do you see that?

25 A. I do.

1 Q. Okay. Second paragraph there
2 says: The dramatic growth in opioid
3 consumption is unique to the United States.
4 In a 2017 technical report, published in
5 accordance with Article 15 of the Single
6 Convention on Narcotic Drugs of 1961, the
7 International Narcotics Control Board wrote,
8 "In 2016, the country with the highest
9 consumption of hydrocodone continued to be
10 the United States, with 33.4 tons, equivalent
11 to 99.1% of total global consumption." The
12 report also noted "consumption of oxycodone
13 was concentrated in the United States (72.9%
14 of the world total)."

15 Do you see that?

16 A. I do see where that's stated in
17 the document.

18 Q. So based on these findings, is
19 it your understanding that only people in the
20 United States need opioids?

21 MS. HENN: Objection to form.

22 A. I don't know that I can say
23 with any certainty why these statistics are
24 listed the way they are.

25 ///

1 BY MR. BOGLE:

2 Q. Yeah. I'm just asking whether
3 it's your understanding that only people in
4 the United States have a legitimate medical
5 need for opioids.

6 MS. HENN: Objection to form.

7 A. I think the document says that
8 they're used in other parts of the world, 72%
9 is in the U.S., and why doctors prescribe the
10 way they do here and what happens, I don't --
11 I don't know.

12 BY MR. BOGLE:

13 Q. It's actually 99% for
14 hydrocodone. Do you see that?

15 A. I'm sorry, the 72.9 number is
16 the number that --

17 Q. Yeah, the prior -- sorry.

18 A. Prior?

19 Q. The prior sentence says: In
20 2016, the country with the highest
21 consumption --

22 A. I'm sorry, you're correct,
23 99.1%.

24 Q. So if there is such a
25 significant medical need for hydrocodone, for

1 example, in the United States, can you
2 explain why that significant medical need
3 doesn't exist in other developed countries in
4 the world?

5 A. No.

6 MS. HENN: Objection to form,
7 calls for speculation.

8 BY MR. BOGLE:

9 Q. I want to look at one more
10 thing here and then we can take a break.

11 But you don't dispute that
12 McKesson has great power to control the
13 downstream flow of opioids to pharmacy
14 customers around the country, do you?

15 A. I don't know that I agree.

16 Q. Okay. Do you know an
17 individual at McKesson name of Gary Boggs?

18 A. I do, yes.

19 Q. Okay. He's in your regulatory
20 department, right?

21 A. He is.

22 Q. He's also a pretty senior level
23 in the regulatory department as well, right?

24 MS. HENN: Objection to form.

25 A. I believe he's a vice president

1 of the regulatory department and has had
2 different roles, but I would call him a
3 senior member of our regulatory team.

4 BY MR. BOGLE:

A horizontal bar chart titled "Percentage of respondents who believe the U.S. should take action to reduce greenhouse gas emissions." The chart displays data for two groups: "Total" and "U.S. only". Each group is further divided into "Men" and "Women". The bars represent the percentage of respondents in each category who believe the U.S. should take action to reduce greenhouse gas emissions. The y-axis lists age groups from 18-29 to 65+. The x-axis represents the percentage, ranging from 0 to 100. The bars are color-coded: blue for "Total", orange for "U.S. only", and light blue for "Men" and light orange for "Women".

Age Group	Gender	Total (%)	U.S. only (%)
18-29	Men	75	75
18-29	Women	75	75
30-39	Men	75	75
30-39	Women	75	75
40-49	Men	75	75
40-49	Women	75	75
50-59	Men	75	75
50-59	Women	75	75
60-69	Men	75	75
60-69	Women	75	75
70+	Men	75	75
70+	Women	75	75

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MS. HENN: Objection to form,

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lacks foundation.

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MS. HENN: Objection, calls for
speculation.

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5 BY MR. BOGLE:

6 Q. Right.

7 And as far as product goes,
8 McKesson supplies, I think the website
9 currently says one out of every three pills
10 filled in the United States, right?

11 MS. HENN: Objection to form,
12 lacks foundation.

13 A. I think I've seen statistics,
14 and I have shared with great pride that we
15 are responsible for roughly a third of the
16 nation's medication supply.

17 BY MR. BOGLE:

18 Q. Right. So you've seen that
19 statistic before, right?

20 A. I have.

21 MR. BOGLE: All right. We can
22 take a quick break.

23 MS. HENN: Sure.

24 THE VIDEOGRAPHER: We're off
25 the record at 3:13 p.m. This

1 concludes Disc 3.

2 (Recess taken, 3:13 p.m. to
3 3:24 p.m.)

4 THE VIDEOGRAPHER: We're back
5 on the record at 3:24 p.m., beginning
6 of Disc 4.

7 BY MR. BOGLE:

8 Q. Mr. Cavacini, West Virginia is
9 another state that's been ravaged by the
10 opioid epidemic, right?

11 A. I'm aware of the issue in
12 West Virginia.

13 Q. Okay. And the issue being that
14 it's been extremely hard hit by the opioid
15 epidemic, right?

16 A. I've heard it described the
17 same way.

18 Q. And in 2018, there was actually
19 a congressional investigation into McKesson
20 and other distributors as to their conduct in
21 West Virginia as it related to opioid
22 distribution, right?

23 A. I believe there was an inquiry
24 and investigation that I'm aware.

25 Q. Right. And, for example, the

1 CEO of McKesson, Mr. Hammergren, actually was
2 called by Congress to testify in a hearing,
3 correct?

4 A. I am aware of the testimony.

5 Q. Okay. Have you read the
6 testimony?

7 A. I don't believe I've read the
8 whole transcript. I've seen the testimony on
9 C-SPAN.

10 Q. Okay. The whole -- all of his
11 testimony or just portions of it?

12 A. I believe I've seen the entire
13 testimony at one time, and then I've also
14 seen portions of it.

15 Q. Okay. Were you involved in any
16 way in assisting Mr. Hammergren to testify
17 before Congress?

18 A. No.

19 Q. Were you involved, for example,
20 in collecting any information for him to
21 testify?

22 A. No.

23 Q. I'm going to hand you what I'm
24 marking as Exhibit 28 to your deposition, and
25 that's 1.44, a public document, so no Bates

1 numbers.

2 (McKesson-Cavacini Deposition
3 Exhibit 28 marked.)

4 BY MR. BOGLE:

5 Q. Okay. And this is a letter
6 from the House of -- Congress of the United
7 States, House of Representatives, Committee
8 on Energy and Commerce from February 15,
9 2018.

10 Do you see that?

11 A. I do.

12 Q. And the letter is addressed to
13 McKesson's CEO, John Hammergren, right?

14 A. Agreed.

15 Q. Okay. And have you ever seen
16 this letter?

17 A. I believe I have, yes.

18 Q. As part of preparation or at
19 some time in your work at McKesson?

20 A. I believe I saw it during prep.

21 Q. Okay. Have you ever seen it as
22 part of your daily job at McKesson?

23 A. I don't believe so, no.

24 Q. Okay. And if you look at the
25 second paragraph here in this letter, it

1 says: As parts of our investigation, the
2 Committee wrote you -- to you on May 8, 2017,
3 regarding your distribution practices
4 generally, and in particular with respect to
5 West Virginia. As we mentioned in that
6 letter, the opioid epidemic has been
7 particularly devastating to West Virginia.
8 For example, in 2015, West Virginia had the
9 highest opioid overdose death rate in the
10 nation.

11 And then the last sentence in
12 that paragraph says: Court filings also
13 indicate that between 2007 and 2012, McKesson
14 distributed 46,179,600 doses of hydrocodone
15 and 54,304,980 doses of oxycodone, meaning
16 that McKesson shipped a total of 100,484,580
17 doses to West Virginia during this time
18 period.

19 Do you see that?

20 A. I do see that.

21 Q. Are you familiar with those
22 statistics as far as how much hydrocodone and
23 oxycodone McKesson distributed to
24 West Virginia during that five-year time
25 frame?

1 A. I mean, I see the statistics
2 listed here in the letter and I'm familiar
3 with the numbers now.

4 Q. Okay. But prior to your
5 preparation for deposition, had you seen any
6 numbers like that as it pertained to
7 West Virginia and the company's distribution
8 of hydrocodone and oxycodone?

9 A. I don't recall seeing any
10 statistics.

11 Q. All right. Let's go back to
12 Exhibit 22, which is the other congressional
13 publication we were looking at. All right.

14 Let's start on page .5. And
15 looking in the second paragraph of the
16 executive summary, the second sentence that
17 starts with "In early 2017."

18 Do you see where I'm at?

19 A. I believe I do.

20 Q. It says: In early 2017, the
21 Committee became interested in allegations of
22 "opioid-dumping," a term to describe
23 inordinate volumes of opioids shipped by
24 wholesale drug distributors to pharmacies
25 located in rural communities, such as those

1 in West Virginia.

2 And then in the next paragraph
3 it says: In May 2017, the Committee opened a
4 bipartisan investigation into the
5 allegations. From press reports and this
6 investigation, the Committee learned of
7 opioid shipments in West Virginia that
8 shocked the conscience.

9 And then there's three bullet
10 points noting some description of the
11 shipments.

12 Do you see that?

13 A. I do.

14 Q. First bullet point says: Over
15 10 years, 20.8 million opioids were shipped
16 to pharmacies in the town of Williamson, home
17 to approximately 3,000 people.

18 Do you see that?

19 A. I do, yes.

20 Q. You agree with me that just
21 common sense, that's an inordinate amount of
22 opioids for that size town?

23 MS. HENN: Objection to form.

24 A. I don't agree.

25 ///

1 BY MR. BOGLE:

2 Q. You don't agree? Okay.

3 The next bullet point says:

4 Another nearly 9 million opioids were
5 distributed in just two years to a single
6 pharmacy in Kermit, West Virginia, population
7 406.

8 Do you see that?

9 A. I do.

10 Q. Do you agree that that's an
11 inordinate amount of opioids to be delivered
12 in a two-year period given the size of that
13 city?

14 A. I don't know. And it's hard to
15 make determinations of, you know, where --
16 pharmacies' orders and markets and
17 prescribers. I don't know if it's inordinate
18 as you described or not.

19 Q. Okay. You certainly at your
20 time at McKesson have been, from a geographic
21 perspective, had responsibility for portions
22 of West Virginia, right, from a sales
23 perspective?

24 A. I was never a direct
25 salesperson in West Virginia, but during the

1 period of time that I had responsibility for
2 New Castle, the northwestern part of
3 West Virginia, and during the period of times
4 that I had responsibility for our Virginia
5 DC, other parts of West Virginia.

6 Q. During your time at McKesson,
7 did you ever develop an understanding of the
8 makeup population-wise of West Virginia?

9 A. No.

10 Q. Any concept that it's largely a
11 rural-based state as far as population goes?

12 MS. HENN: Objection to form.

13 A. I never sought out or
14 researched, but generally aware that parts of
15 West Virginia are considered rural.

16 BY MR. BOGLE:

17 Q. Okay. The third bullet point
18 going back to this says: Between 2007 and
19 2012, drug distributors shipped more than
20 780 million hydrocodone and oxycodone pills
21 to West Virginia.

22 Do you see that?

23 A. I do.

24 Q. So you hold the same view on
25 that, that you have no opinion as to whether

1 that five-year period of time, that's an
2 inordinate amount of opioids to this single
3 state?

4 A. I don't know if it is or it
5 isn't.

6 Q. You know McKesson was one of
7 the companies being investigated by Congress
8 as part of this proceeding, right?

9 If you don't know, maybe I can
10 just point you to the spot on here to move
11 things along.

12 A. Yeah, I believe that to be
13 true. I'm just trying to make sure I
14 absolutely know it to be true.

15 Q. Okay. If you look on page .5,
16 further down, I'm in the last paragraph in
17 the middle, where it says: The companies
18 whose distribution was reviewed.

19 A. Okay.

20 Q. You see it lists several
21 distributors, and McKesson's on that list,
22 right?

23 A. I mean, you described it as an
24 investigation. This says it was -- I'm
25 really not trying to be difficult. I just

1 don't know. I haven't read this whole
2 document. I don't know if it's described as
3 an investigation, an inquiry.

4 I understand that it says that
5 it was -- we were one of the companies that
6 was reviewed.

7 Q. Okay. Well, I think the
8 passage I just read to you a moment ago,
9 Congress describes it itself as an
10 investigation. For example, if you go back
11 to the third paragraph --

12 A. Opened a bipartisan
13 investigation into the allegations, and I
14 guess as a result of that, the companies
15 reviewed included McKesson.

16 Q. Right. So again, I'm only
17 asking you at this point: Do you understand,
18 do you see here that McKesson was one of the
19 companies reviewed as part of this
20 investigation, right?

21 A. It appears to be, yes.

22 Q. Okay. Were you not aware of
23 that prior to today, that there was an
24 investigation that had just been completed by
25 Congress last month and published regarding

1 McKesson and other distributors and their
2 conduct in West Virginia?

3 A. I guess, you know, there's --
4 I'm a little unclear on the letter from
5 earlier 2018, and I believe we referenced the
6 letter that was dated in 2017, if that's all
7 part of the same matter, if the energy
8 commerce -- but to answer your question, I
9 mean, I am aware now that it concluded on
10 December 19th and apparently this report was
11 issued.

12 Q. Right. But prior to starting
13 this deposition and me showing you this
14 today, this is something you were unaware of,
15 true?

16 A. I was aware of the inquiry
17 and -- if these are all related, I'm just not
18 clear on that, sir.

19 Q. Okay. But the findings in this
20 report from December 19, 2018 are findings
21 you are unfamiliar with prior to us talking
22 about it today, right?

23 A. I have not reviewed this
24 document in detail prior to us talking about
25 it today.

1 Q. Okay. Let's go to page .6
2 here. The first full paragraph says: This
3 report presents case studies of opioid
4 distribution to southwestern West Virginia
5 pharmacies over the last decade. The
6 findings from these individual case studies
7 are not necessarily generalizable of the
8 conduct of the distributors more broadly.
9 However, the case studies - taken together
10 with the sheer number of opioids sent to
11 these small towns - raise sufficient concerns
12 as to whether these companies fulfilled their
13 legal obligations to prevent drug diversion.

14 Do you see that?

15 A. I do see that.

16 Q. Did you understand that part of
17 the investigation -- I know you haven't seen
18 this publication, but did you understand that
19 part of this investigation by Congress would
20 include assessing whether distributors like
21 McKesson fulfilled their legal obligations to
22 prevent drug diversion in West Virginia?

23 MS. HENN: Object to form.

24 A. I don't know that I was aware
25 what the objectives of the committee's

1 investigation was prior to seeing it here.

2 BY MR. BOGLE:

3 Q. If the committee concluded that
4 there were widespread failures as it
5 pertained to preventing diversion of opioids
6 by McKesson and other distributors, would you
7 disagree with that finding from Congress?

8 MS. HENN: Objection to form,
9 calls for speculation.

10 A. I haven't reviewed the whole
11 document. I'm not sure what the conclusions
12 were. But I think I would -- if you could
13 repeat the last part of the question again.

14 BY MR. BOGLE:

15 Q. Right. If the committee as
16 part of this report concluded that there were
17 widespread failures to prevent diversion of
18 opioids by distributors, including McKesson,
19 would you disagree with those findings?

20 MS. HENN: Objection, calls for
21 speculation.

22 A. If those were the conclusions,
23 I would disagree.

24 BY MR. BOGLE:

25 Q. Okay. Give me just one second.

1 All right.

2 Let's go to page .26. You see
3 here it says: The Opioid Epidemic's Impact
4 in West Virginia.

5 Do you see that?

6 A. It's the opening sentence, yes.

7 Q. Yep. It says there: The
8 opioid epidemic's impact has been
9 particularly acute in West Virginia,
10 beginning with the influx of OxyContin to the
11 state during the late 1990s. The sudden
12 influx of prescription opioids, leading to
13 the resulting increases in abuse and
14 addiction, has had profound effects on
15 West Virginia. Between 1999 and 2004, the
16 number of lives lost to accidental drug
17 overdoses in West Virginia increased 550%,
18 giving West Virginia the highest
19 unintentional drug overdose death rate in the
20 United States at the time. A study published
21 in the Journal of the American Medical
22 Association in December 2008 found that, in
23 2006, 93% of unintentional overdose deaths
24 attributable to prescription drugs in
25 West Virginia involved opioids.

1 And the next paragraph
2 continues: In 1917, West Virginia continued
3 to have the highest overdose death rate in
4 the country, and a report issued by the
5 West Virginia Department of Health and Human
6 Services found that the number of overdose
7 deaths in the state increased by more than
8 316% between 2001 and 2016, with most
9 overdose deaths involving at least one
10 opioid.

11 You see that?

12 A. I do.

13 Q. Those statistics, you're
14 familiar with any of those prior to today?

15 MS. HENN: Objection to form,
16 lacks foundation.

17 A. I don't believe I had seen the
18 specific statistics relative to West Virginia
19 as outlined here.

20 BY MR. BOGLE:

21 Q. Okay. So this time frame here
22 that's being discussed, and specifically
23 talking about 2006 to 2016, as the deaths are
24 increasing from opioid overdoses in
25 West Virginia, do you have an understanding

1 of what was happening as far as the amount of
2 opioids that were being supplied from
3 McKesson to West Virginia?

4 A. I just want to be clear. It
5 says from 2001 to -- there's a bunch of dates
6 in the different paragraphs that we read.

7 Q. Yeah.

8 A. I thought you said 2006, but
9 2001 to 2016, do I know McKesson shipments?

10 Q. Yeah. So anytime during the
11 time frame -- let's do that time frame. I'll
12 strike the previous question.

13 From 2001 to 2016, do you have
14 any sense as to what was happening with
15 McKesson's shipment of opioids to
16 West Virginia as far as whether they're going
17 up, down or staying the same?

18 A. I do not, no.

19 Q. Okay. Well, if we go to
20 page .242 -- 242. You see there's two charts
21 here towards the middle of the page? You see
22 those?

23 A. I do.

24 Q. Okay. The sentence before
25 those charts describes them. It says: The

1 chart below details the number of suspicious
2 order reports submitted to DEA regarding
3 West Virginia pharmacies as well as the
4 amount of oxycodone and hydrocodone doses
5 shipped to the state each year.

6 Do you see that?

7 A. I do.

8 Q. Okay. And if you look, for
9 example, at the number of doses that McKesson
10 shipped in millions of oxycodone and
11 hydrocodone in 2006, was at 17.07 million
12 doses.

13 Do you see that?

14 MS. HENN: Objection to form,
15 lacks foundation.

16 A. I do see where the document
17 says under 2006, 17.07.

18 BY MR. BOGLE:

19 Q. Okay. If you go -- and you see
20 there, the numbers here, there's a citation
21 923 at the end of that sentence.

22 Do you see that?

23 A. I do.

24 Q. Okay. If you go down to the
25 bottom of the page, it indicates that this

1 shipment data came from McKesson, right? See
2 that last sentence under 923?

3 A. It says: McKesson produced
4 shipment data from 2006 to the end of 2016.

5 Q. Right. Which is -- coincides
6 with the chart we're looking at here, right,
7 time period-wise?

8 A. It appears to, yes.

9 Q. Okay. And, for example, you go
10 to 2007, there's 25.63 million doses of
11 oxycodone and hydrocodone shipped to
12 West Virginia from McKesson.

13 You see that figure?

14 A. I do.

15 Q. And then if we kind of go on
16 through, by the time we get to 2015, we're at
17 40.71 million doses of hydrocodone and
18 oxycodone shipped by McKesson into
19 West Virginia in that year.

20 Do you see that figure?

21 A. I do.

22 Q. And in 2016, 36.53 million
23 doses in that year shipped by McKesson.

24 Do you see that?

25 A. I do.

1 Q. So in looking at these figures,
2 we can agree that looking at 2006-2007 time
3 frame, the numbers substantially increase
4 when compared to 2015 and 2016, right?

5 MS. HENN: Objection to form,
6 lacks foundation.

7 A. The numbers here from 2006 to
8 '16 approximately doubled.

9 BY MR. BOGLE:

10 Q. Right.

11 And so based on your prior
12 testimony, I would assume you attribute that
13 to just more business for McKesson, right?

14 A. I don't know how to attribute
15 it.

16 Q. Okay. Do those numbers concern
17 you at all that in the state of West Virginia
18 that's the amount of pills that were shipped
19 of oxycodone and hydrocodone in 2015 and
20 2016, especially compared to what happened in
21 2006 and 2007?

22 MS. HENN: Objection to form.

23 A. Again, without the context
24 relative to our overall business in
25 West Virginia and the customers we served, I

1 don't know that I can answer that. I mean, I
2 think there's more context needed around --

3 BY MR. BOGLE:

Response	Percentage
U.S. should take action to reduce greenhouse gas emissions	4%
U.S. should not take action to reduce greenhouse gas emissions	96%

8 MS. HENN: Objection to form,
9 calls for speculation.

10

Row	Bar Start (approx. %)	Bar End (approx. %)
1	25	75
2	10	90
3	10	100
4	10	60
5	10	100
6	10	85
7	35	85
8	10	50
9	10	90
10	10	35
11	25	95
12	10	100
13	10	80
14	10	95
15	10	100

24 MS. HENN: Objection to form.

25 ///

1 BY MR. BOGLE:

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MS. HENN: Lacks foundation.

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Go ahead.

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MS. HENN: Objection to form,

13

vague.

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Let's go to page .106. In

21

the -- there's the third paragraph there,

22

"The scope of the Committee's review."

23

Do you see that?

24

A. I do.

25

Q. It says: The scope of the

1 Committee's review of the distributors'
2 conduct was limited. The investigation
3 focused only on distributors' shipments to
4 certain areas of West Virginia and individual
5 pharmacies located in those rural regions.
6 Accordingly, much of this section is
7 comprised of the case studies.

8 While the Committee cannot draw
9 comprehensive, nationwide conclusions from
10 this review, the findings are astonishing
11 and concerning. They also raise questions
12 about the effectiveness of distributors'
13 anti-diversion efforts outside West Virginia,
14 as the same policies were implemented across
15 the country.

16 Do you see that?

17 A. I do, yes.

18 [REDACTED]
[REDACTED]
[REDACTED]
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MS. HENN: Objection to form,

calls for speculation.

1 MS. HENN: Objection, calls for
2 speculation.

3 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

8 MR. BOGLE: Okay. Move to
9 strike as nonresponsive.

10 BY MR. BOGLE:

11 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

15 MS. HENN: Objection to form,
16 asked and answered.

17 [REDACTED]
[REDACTED]
[REDACTED]
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21 [REDACTED]
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MS. HENN: Objection to form,

calls for speculation.

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MS. HENN: Objection, form,

5

asked and answered.

6

BY MR. BOGLE:

7

Q. I'm not asking you about

8

effort. I'm asking you about execution.

9

MS. HENN: Same objection.

10

A. No, I don't believe there's

11

reason to be concerned.

12

BY MR. BOGLE:

13

Q. Okay. Let's take a look at one

14

of the pharmacies that was investigated here

15

as far as McKesson. Let's go to .131.

16

There's a section (i) there, McKesson's

17

Initial Engagement with Family Discount

18

Pharmacy.

19

Do you see that?

20

A. I do.

21

Q. Have you ever heard of Family

22

Discount Pharmacy?

23

A. I believe I have relating to

24

these letters and the investigation

25

referenced here.

1 Q. Had you heard of them prior to
2 reading these letters?

3 A. I don't believe I had.

4 Q. It says here: Family Discount
5 Pharmacy in Mount Gay-Shamrock,
6 West Virginia, was McKesson's biggest
7 purchaser of hydrocodone and oxycodone in
8 West Virginia between 2006 and 2017.
9 McKesson supplied Family Discount Pharmacy
10 with more than 5.91 million doses of
11 hydrocodone and oxycodone during six years
12 between 2006 and 2014. Between 2006 and 2007
13 alone, McKesson provided Family Discount
14 Pharmacy with more than 3.82 million doses of
15 hydrocodone. As will be described below,
16 McKesson terminated this pharmacy prior to
17 2008 for "compliance reasons" but elected to
18 onboard the customer again two times
19 thereafter.

20 Do you see those references?

21 A. I do.

22 Q. Okay. Let's go to page .136.
23 You see there's a finding at the top here --
24 this is again related to Family Discount
25 Pharmacy -- that says: McKesson did not

1 consider its prior relationship with Family
2 Discount Pharmacy when evaluating the
3 pharmacy's new customer application in 2010,
4 with a member of McKesson's regulatory
5 affairs division at one point stating, "I
6 cannot see any reason we should be hesitant"
7 with respect to the pharmacy.

8 Do you see that?

9 A. I do see where that's listed
10 and highlighted in blue.

11 Q. Okay. And then what's
12 discussed below that are two e-mails from
13 McKesson sales staff. So I want to take a
14 look at those and ask you about those
15 e-mails.

16 It says: The e-mails provided
17 by McKesson suggest that the company viewed
18 itself as being in competition with other
19 distributors to obtain Family Discount's
20 account. For example, in an e-mail to a
21 McKesson Vice President and General Manager
22 referencing a pricing proposal for Family
23 Discount Pharmacy, a member of McKesson's
24 sales division noted the pharmacy had a,
25 quote/unquote, very aggressive buy plan with

1 lacks foundation, calls for
2 speculation.

3 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

14 BY MR. BOGLE:

15 Q. You think Family Discount
16 Pharmacy was a pharmacy that was aligned with
17 McKesson's goals as it pertains to either of
18 those?

19 MS. HENN: Objection to form,
20 calls for speculation, lacks
21 foundation.

22 A. I don't know. I'm not familiar
23 with the account or the history.

24 BY MR. BOGLE:

25 Q. Okay. In the text that

1 continues below these e-mails, it says: In
2 another e-mail, a member of McKesson's sales
3 division said that he was sure either
4 H.D. Smith or Cardinal Health would offer to
5 be Family Discount's secondary distributor if
6 McKesson were to, quote/unquote, win Family
7 Discount's business.

8 Do you see that?

9 A. I do.

10 Q. Okay. Is that -- in your mind,
11 should be the goal of the sales staff is to
12 be worried about just winning business at all
13 costs?

14 MS. HENN: Objection, lacks
15 foundation, mischaracterizes the
16 document.

17 A. This is one sentence out of an
18 e-mail, and I don't read it that way. It
19 said that another competitor would also be
20 willing to service this customer in a
21 secondary relationship if we were to win the
22 account. I don't know what that means.

23 BY MR. BOGLE:

24 Q. Okay. Well, getting a new
25 account, certainly in 2010, would have

1 resulted in the sales rep winning him or
2 herself, right, as far as a bonus goes,
3 wouldn't it?

4 MS. HENN: Objection to form,
5 lacks foundation, calls for
6 speculation.

7 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

12 BY MR. BOGLE:

13 Q. Okay. Let's go to the next
14 page, .137. The first full paragraph says:
15 According to documents produced to the
16 Committee, McKesson onboarded Family Discount
17 and set the pharmacy's hydrocodone ordering
18 threshold at 155,000 dosage units a month - a
19 level 31 times more than what McKesson
20 determined warranted supplementary
21 documentation on its new questionnaire --
22 customer questionnaire.

23 Do you see that?

24 A. [REDACTED]
[REDACTED] [REDACTED] [REDACTED]

1

2

3

4 hydrocodone is high, very high, right?

5

6 A. It states here that -- I don't
7 know how it relates to other pharmacies and
8 if it would be high or not for this specific
9 pharmacy.

10

11 Q. Okay. If we can go to
12 page .140, we're now into 2012, some
13 additional e-mails, again, referring to
14 Family Discount Pharmacy.

15 In the first line under the
16 e-mail it says: In a separate e-mail, a
17 member of McKesson's sales division
18 characterized the pharmacy as a,
19 quote/unquote, real opportunity and requested
20 that the scheduling of the visit be
21 expedited. This e-mail is reproduced below.

22 So the visit being a visit
23 to -- you visit customers when you onboard
24 them, right, as a new customer?

25 A. I'm aware that, you know,
customers will be visited often by a member
of the regulatory affairs team when coming

1 onboard.

2 Q. And per the discussion here,
3 the sales member at McKesson asked for that
4 to be expedited as it pertained to Family
5 Discount Pharmacy in 2012, right?

6 A. Again, I see where it states
7 that, and I see the e-mail where it says:
8 Please expedite, thanks.

9 Q. All right. I'm just making
10 sure you're done with your answer. I didn't
11 want to launch into another question.

12 A. Yeah, I was.

13 Q. Okay. Let's go finally on this
14 point to page .142. First -- the second
15 paragraph there says: As noted above, during
16 McKesson's three engagements with Family
17 Discount Pharmacy, it supplied more than
18 5.91 million doses of hydrocodone and
19 oxycodone, making the pharmacy McKesson's
20 biggest customer in West Virginia between
21 2006 and 2017. Had McKesson maintained
22 robust due diligence files for Family
23 Discount Pharmacy and consulted these files
24 when it was considering the pharmacy's
25 applications in 2010 and 2012, it would have

1 been aware that it terminated the pharmacy
2 for compliance reasons on at least one prior
3 occasion. In addition, conducting a
4 retrospective review of the due diligence
5 files would have also alerted McKesson to the
6 pharmacy's failure to disclose its previous
7 termination by McKesson on its 2010 and 2012
8 new customer applications, with the pharmacy
9 seemingly providing the company with a
10 misrepresentation on its 2010 application in
11 particular. Such information may have
12 prompted McKesson to deny Family Discount's
13 applications on multiple occasions. Instead,
14 McKesson accepted Family Discount as a
15 customer a total of at least three times,
16 only to ultimately restrict its ability to
17 purchase controlled substances again in 2014.

18 Do you see that?

19 A. I do.

20 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

25 MS. HENN: Objection to form,

1 lacks foundation.

2

3

4

5 BY MR. BOGLE:

6

7

8

9 Q. All right. Let's go to
10 page .244. I want to look at the second full
11 paragraph there on that page, where it says:
12 McKesson did not report suspicious orders for
13 West Virginia customers until 2013. Since it
14 began doing so, the company submitted upwards
15 of 10,000 suspicious order reports to the
16 DEA. By not reporting suspicious orders when
17 they were discovered, McKesson failed to meet
18 its responsibilities under the CSA. In
19 addition, the failure to report suspicious
20 orders deprived the DEA of timely information
21 that could have alerted the agency to
22 potential controlled substance diversion,
23 which the agency could have used to act
24 against registrants that were illegally
25 diverting controlled substances.

23

You see that?

24

A. I do see that.

25

1

[REDACTED]

2

[REDACTED]

3

MS. HENN: Objection to form,

4

lacks foundation.

5

[REDACTED]

6

[REDACTED]

7

[REDACTED]

8

[REDACTED]

9

[REDACTED]

10

[REDACTED]

11

[REDACTED]

12

[REDACTED]

13

[REDACTED]

14

[REDACTED]

15

[REDACTED]

16

MS. HENN: Objection to form,

17

lacks foundation and calls for

18

speculation.

19

[REDACTED]

20

[REDACTED]

21

[REDACTED]

22

[REDACTED]

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[REDACTED]

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[REDACTED]

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[REDACTED]

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MS. HENN: Objection to form,
mischaracterizes the testimony.

MS. HENN: Objection to form,
lacks foundation.

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MS. HENN: Objection to form,
lacks foundation and calls for a legal
conclusion.

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED] [REDACTED]

█ [REDACTED]

█ [REDACTED] [REDACTED] [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

MS. HENN: Same objections.

Objection to form, lacks foundation
and calls for a legal conclusion.

Also, asked and answered.

█ [REDACTED] [REDACTED]

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Q. Okay. Do you agree or disagree
that from 2006 through the present day,
McKesson has experienced breakdowns in its
due diligence related to opioids?

MS. HENN: Objection to form,
lacks foundation.

A. I'm not sure I would
characterize them the way you had. I am
aware that we had accepted responsibility for
failing to report some orders for some
customers during specific periods of time.

BY MR. BOGLE:

Q. And that's outlined in the 2017
settlement agreement, right?

1 A. I believe so, yes.

2 Q. Which have you also read that
3 agreement?

4 A. I've reviewed parts of the
5 agreement. I can't say that I've read the
6 entire document.

7 Q. Okay. Have you reviewed parts
8 of that agreement as part of your employment
9 at McKesson or in preparation for deposition
10 or both?

11 A. I remember reviewing it as part
12 of the prep for this discussion today.

13 Q. Did you ever read the 2017
14 agreement or any parts of it as part of your
15 just day-to-day work at McKesson?

16 A. I had received summaries of the
17 document --

18 MS. HENN: I'm just going to
19 object that if you're starting to talk
20 about things you heard from lawyers,
21 you shouldn't do that, but go ahead
22 and if you could repeat the question.

23 BY MR. BOGLE:

24 Q. Yeah, let me rephrase my
25 question because I don't think I'm asking

1 that at all.

2 I'm just asking whether, as
3 part of your day-to-day work at McKesson, you
4 ever personally read any portion off the 2017
5 settlement agreement. I don't want to know
6 what anybody told you. I want to know if you
7 read it.

8 A. I don't -- I can't say that I
9 pulled out the document and read the
10 document, but as part of my role and
11 responsibilities, I had received summaries
12 and our responsibilities under that
13 settlement.

14 Q. Did you ever ask to see the
15 whole agreement as part of your job
16 responsibilities at McKesson?

17 A. No, I don't recall that I did.

18 Q. Okay. I'm going to mark
19 Exhibit 29 for you, which is 1.88. Also,
20 it's MCKMDL00355350.

21 (McKesson-Cavacini Deposition
22 Exhibit 29 marked.)

23 BY MR. BOGLE:

24 Q. All right. So this is, first
25 of all, the top of the first page states

1 Administrative Memorandum of Agreement.

2 Do you see that?

3 A. I do, yes.

4 Q. And if you go to the last page,
5 there are signatures, January 5th, 2017 by
6 Mark Walchirk at McKesson, and then also
7 signatures from members of DEA.

8 Do you see that on the last
9 page?

10 A. I do, yes.

11 Q. And Mark Walchirk, as noted
12 here, at that time was president of
13 U.S. Pharma at McKesson, right?

14 A. Correct.

15 Q. Okay. So I want to look at a
16 couple of aspects of this settlement
17 agreement here in 2017.

18 If you go first to page .2.
19 You see there under number 7 it says: On or
20 about November 14, 2014, McKesson received a
21 letter (dated November 4, 2014) from the DEA
22 Office of Chief Counsel, Diversion Regulatory
23 and Litigation Section, stating that DEA was
24 separately pursuing administrative action
25 against McKesson-Aurora for the conduct

1 outlined in the August 13, 2014 letter.

2 DEA also stated that the
3 allegations regarding McKesson's failure to
4 maintain effective controls against diversion
5 of particular controlled substances -- and it
6 cites to 21 U.S.C. 823(b)(1) -- and failure
7 to design and operate a system to disclose to
8 the registrant suspicious orders of
9 controlled substances -- and it cites to
10 21 CFR 1301.74(b) -- was national in scope,
11 and that DEA was also pursuing administrative
12 investigations of such alleged failures at
13 McKesson -- and it lists multiple
14 distribution centers at McKesson, right?

15 A. It does, yes.

16 Q. Okay. Now, have you ever
17 reviewed any of these letters that are
18 outlined here in this paragraph?

19 A. I would like to see the letters
20 to make sure I have. I'm not sure what the
21 November 14, 2014 letter is.

22 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

1

3

MS. HENN: Objection to form,

4

lacks foundation.

5

A. I don't recall.

6

BY MR. BOGLE:

7

Q. Okay. Well, you would agree

8

with me that what's outlined here concerns of

9

the DEA outlined about --

10

MS. HENN: I think your finger

11

is in the shot.

12

MR. BOGLE: Oh. Sorry.

13

BY MR. BOGLE:

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MS. HENN: Objection to form,

25

lacks foundation.

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Q. Okay. Let's go to .3. You see under number 2, you referenced this a little bit earlier, is the acceptance of responsibility provision.

9

Do you see that?

10

A. I do.

11

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Q. Okay. It says there: On or about September 27, 2006, February 7, 2007, and December 27, 2007, DEA's Deputy Assistant Administrator, Office of Diversion Control, sent letters to every entity in the United States that was registered with DEA to manufacture or distribute controlled substances, including McKesson.

19

20

And it references the DEA letters.

21

22

23

24

The DEA letters contained, among other things, guidance for the identification and reporting of suspicious orders to DEA -- and it references the CFR.

25

Then it says: McKesson

1 acknowledges that, at various times during
2 the time period -- during the period from
3 January 1, 2009 up through and including the
4 effective date of this agreement (the Covered
5 Time Period), it did not identify or report
6 to DEA certain orders placed by certain
7 pharmacies which should have been detected by
8 McKesson as suspicious based on the guidance
9 contained in the DEA letters about the
10 requirements set forth in -- and then it
11 lists the CFR and U.S.C.

12 Do you see that?

13 A. I do.

14 Q. This is the acceptance of
15 responsibility provision that you were
16 talking to me about a few minutes ago, right?

17 A. I believe so, yes.

18 Q. Okay. And we looked at the
19 execution or effective date of this agreement
20 is in January 2017, right? You see that on
21 the last page, right? Do you see that on the
22 last page?

23 A. Yeah. It was signed in January
24 of --

25 Q. Executed. Yeah.

1 So the acceptance of
2 responsibility for the failure to identify
3 and report suspicious orders over an
4 eight-year time frame, that's very
5 significant, isn't it?

6 MS. HENN: Objection to form,
7 mischaracterizing the document, lacks
8 foundation.

9 A. I don't know, but I think we
10 take our obligations under the Controlled
11 Substances Act and under this memorandum of
12 agreement very seriously.

13 BY MR. BOGLE:

14 Q. The obligation -- once this
15 agreement was executed, is that what you're
16 referring to?

17 A. No, I think I said under the
18 Controlled Substances Act.

19 Q. Okay. Do you think that this
20 acceptance of responsibility that I just read
21 is consistent with a company who's taken
22 these responsibilities seriously?

23 MS. HENN: Objection to form,
24 the prior question had misstated the
25 contents of the document.

1 A. I'm not aware of all the
2 specifics that went into reaching this
3 settlement with the DEA, and I think it
4 states clearly that at various times during
5 the period we accepted responsibility because
6 we did not identify or report certain orders
7 placed by certain pharmacies which should
8 have been detected by McKesson.

9 BY MR. BOGLE:

10 Q. Okay. And this is now the
11 second settlement agreement we've seen.
12 There's also one in 2008 we looked at earlier
13 today.

14 Do you recall that?

15 A. I do.

16 Q. Okay. And so do you think that
17 the entering into two separate settlement
18 agreements nine years apart for essentially
19 the same exact conduct is consistent with a
20 company that takes their due diligence
21 responsibility seriously?

22 MS. HENN: Objection to form,
23 lacks foundation, mischaracterizes the
24 settlements.

25 A. I think we do have and have

1 always taken our responsibilities seriously.

2 BY MR. BOGLE:

3 Q. Okay. Well, do you dispute
4 that McKesson had a widespread failure to
5 investigate and report suspicious orders from
6 2009 to 2017?

7 A. I wouldn't agree with that. I
8 think we acknowledged that for certain
9 pharmacies during a certain period of time.

10 Q. But a very substantial fine was
11 paid this time around in 2017, right, even
12 for a company like McKesson?

13 A. I believe we paid a substantial
14 fine.

15 Q. \$150 million, right?

16 A. That's the number I remember,
17 yes.

18 Q. Okay. And I'll ask you kind of
19 like I asked you before: Can you name for
20 our jury any instance since you've been at
21 the company that McKesson has paid a fine
22 even approaching \$150 million for something
23 the company believed it did not do?

24 MS. HENN: Objection to form,
25 calls for speculation.

1 A. I wasn't involved in the
2 decision-making leading up to this
3 settlement. It says here: In order to avoid
4 the uncertainty and expense of litigation,
5 and in furtherance of the parties' belief
6 that a settlement is in the public interest.

7 MR. BOGLE: Yeah, move to
8 strike as nonresponsive.

9 BY MR. BOGLE:

10 Q. I'm just asking, in the time
11 you've been at the company, can you name for
12 us a specific instance where McKesson has
13 paid anything approaching a \$150 million fine
14 for something that it didn't do? I'm just
15 looking for one example.

16 MS. HENN: Objection to form,
17 calls for speculation.

18 A. I'm not -- I'm not aware of our
19 teams that come to those decisions. I'm not
20 part of those teams that come to those
21 decisions or why -- what might influence our
22 decisions to enter into a settlement or not.

23 BY MR. BOGLE:

24 Q. You think you guys shouldn't
25 have settled in 2017? You should have fought

1 it?

2 A. Again, I don't know what
3 discussions took place between the company
4 and the DEA leading up to this settlement. I
5 believe the company made a decision that he
6 felt was in its best interest and the DEA
7 agreed that it was in the best interest of
8 the public to settle.

9 Q. So, yeah. I'm just asking
10 whether at your time at McKesson it was your
11 personal opinion that this should not have
12 been settled the way it was in 2017,
13 especially with this acceptance of
14 responsibility we just read?

15 MS. HENN: Objection to form.

16 A. I don't know and I don't have
17 enough information to draw a conclusion.

18 BY MR. BOGLE:

19 Q. Okay. On this same page,
20 bottom of .3, carrying over to .4, it lists a
21 total of 12 McKesson distribution centers
22 covered by this agreement as having failed to
23 maintain effective controls against
24 diversion.

25 Do you see that?

1 MS. HENN: Objection to form,
2 mischaracterizing the document.

3 A. I do see where the 12
4 pharmacies are listed, and I'm unclear if
5 this is the allegations against the company.

6 BY MR. BOGLE:

7 Q. You say 12 pharmacies. These
8 are all distribution centers.

9 A. I'm sorry, 12 distribution
10 centers. I'm sorry, you are correct, 12
11 distribution centers.

12 Q. Okay. Let me look at one last
13 thing here and I think I'm done. Page .4
14 now. In letter (c) it says: McKesson failed
15 to follow the procedures and policies set
16 forth in the McKesson CSMP to detect and
17 disclose suspicious orders of controlled
18 substances. Among other things, McKesson
19 failed to conduct adequate due diligence of
20 its customers, failed to keep complete and
21 accurate records in the CSMP files maintained
22 for many of its customers, and bypassed
23 suspicious order reporting procedures set
24 forth in the McKesson CSMP.

25 Do you see that?

1 A. I do see where it says that.

2 Q. Do you think that conduct I
3 just read in this paragraph here is
4 consistent with a company that undertook
5 great efforts to minimize diversion of
6 opioids?

7 MS. HENN: Objection to form.

8 Objection to form, lacks foundation.

9 A. Again, it's my understanding
10 that these were parts of the allocations made
11 by the DEA, but what we accepted
12 responsibility for was clearly outlined here.

13 BY MR. BOGLE:

14 Q. Okay. I'm asking -- this
15 document was ultimately signed by Mark
16 Walchirk, right?

17 A. It appears to be, yes.

18 Q. What I just read to you in
19 letter (c), do you believe that that's
20 consistent -- that conduct is consistent with
21 a company who takes great effort in
22 minimizing diversion?

23 MS. HENN: Objection to form,
24 lacks foundation.

25 A. I don't know if that statement

1 is true or not. I believe it was an
2 allegation against the company that we agreed
3 and accepted responsibility for something
4 very different.

5 BY MR. BOGLE:

6 Q. Oh, you think that McKesson
7 accepted responsibility for something very
8 different than what I just read in letter
9 (c)?

10 A. McKesson accepted
11 responsibility for failing to report certain
12 orders for certain customers.

13 Q. Yeah. I'm asking if in letter
14 (c), that you think that's substantially
15 different than what McKesson accepted
16 responsibility for.

17 A. I'm not a lawyer, but there are
18 components of (c) that aren't listed in the
19 acceptance of responsibility section.

20 Q. Okay. So when Mark Walchirk,
21 president of U.S. Pharma, signed this, he's
22 signing something that contained a bunch of
23 allegations that you think are completely
24 unfounded, right?

25 A. I don't know, but that's not my

1 understanding of what we accepted
2 responsibility for.

3 Q. Well, I'm asking, though: Do
4 you think that this agreement should have
5 been signed by anyone at McKesson that
6 contains the language that's read in letter
7 (c)?

8 MS. HENN: Objection to form.

9 A. I don't know that I'm in a
10 position to second-guess the decisions of
11 Mark and our teams that decided to enter into
12 this agreement with the DEA. I think what
13 I'm focused on now is making sure that we
14 meet our obligations under it and continue to
15 exercise our responsibilities appropriately
16 and to the satisfaction of supply chain
17 stakeholders and the DEA.

18 BY MR. BOGLE:

19 Q. How about satisfaction of the
20 patients who might be impacted by these
21 drugs?

22 A. I think I have a balanced and
23 shared responsibility to make sure that
24 these -- all medications, prescription and
25 otherwise, are available to patients when

1 they need them so they can pick them up at
2 their pharmacy and use them as prescribed,
3 while maintaining effective controls to
4 prevent them from getting in the hands that
5 have -- of people that might have less than
6 good intentions with them.

7 Q. But you would agree the most
8 important responsibility that you have as COO
9 of McKesson at this point in time is making
10 sure that what's outlined in the 2008 and
11 2000 [sic] settlement agreements as far as
12 the failures and due diligence of McKesson
13 don't continue within the company, true?

14 MS. HENN: Objection to form,
15 lacks foundation and mischaracterizes
16 the document.

17 A. I disagree with the framing of
18 the question.

19 BY MR. BOGLE:

20 Q. We reviewed both agreements.
21 Do you think that your obligations as it
22 stands today are to make sure that the things
23 like that are outlined in those two
24 agreements don't occur again?

25 MS. HENN: Same objections,

1 lacks foundation.

2 A. I think one of my
3 responsibilities, along with our regulatory
4 teams, is to make sure that we continue to
5 evolve our program, respond to changing
6 dynamics and trends in the market and have
7 the most effective program to execute our --
8 execute our responsibilities and guard
9 against diversion. And we're committing to
10 doing it.

11 BY MR. BOGLE:

12 Q. To make sure that things like
13 the allegations we read in the 2008 and 2017
14 settlement agreement do not occur again,
15 right?

16 MS. HENN: Objection, lacks
17 foundation.

18 A. I don't know that the
19 allegations happened or not, but, yeah, I
20 would like to have the best program that
21 nobody could question so there aren't
22 allegations again.

23 BY MR. BOGLE:

24 Q. Right. These were all very
25 serious allegations that all resulted in

1 substantial settlements, right?

2 A. I believe I take the
3 allegations seriously and they were
4 substantial settlements and we responded
5 appropriately.

6 Q. You say you responded
7 appropriately. In the 2017 settlement
8 agreement, it's noted that, in fact, starting
9 in 2009, immediately after the 2008
10 settlement agreement, that you guys didn't
11 react appropriately, right?

12 MS. HENN: Objection --

13 BY MR. BOGLE:

14 Q. Can you take away the
15 acceptance of responsibility paragraph as
16 meaning anything other than that?

17 MS. HENN: Objection to form.

18 A. I focus on paragraph 2 that
19 says: McKesson has taken steps to prevent
20 such conduct from occurring in the future,
21 including the measures delineated in the
22 Compliance Addendum.

23 BY MR. BOGLE:

24 Q. Oh, so after this agreement was
25 entered in 2017, right?

1 MS. HENN: Objection to form,
2 mischaracterizing the testimony.

3 A. I think we have taken steps
4 during our entire time with my time with the
5 company to evolve our program.

6 BY MR. BOGLE:

7 Q. But the failures and due
8 diligence that McKesson accepted
9 responsibility for began within months after
10 the settlement agreement was executed in
11 2008. True or not true?

12 MS. HENN: Objection to form,
13 lacks foundation and mischaracterizes
14 the document.

15 A. The time period outlined here
16 starts in January 1, 2009.

17 MR. BOGLE: Okay. I don't have
18 anything further at this time.

19 MS. HENN: I think we'll want
20 to go off the record.

21 THE VIDEOGRAPHER: Okay. We're
22 off the record at 4:31 p.m.

23 (Recess taken, 4:31 p.m. to
24 4:43 p.m.)

25 THE VIDEOGRAPHER: We're back

1 on the record at 4:43 p.m.

2 EXAMINATION

3 BY MS. HENN:

4 Q. Good afternoon, Mr. Cavacini.

5 A. Good afternoon.

6 Q. Mr. Cavacini, what's your
7 current title at McKesson?

8 A. Senior vice president and chief
9 operating officer for our U.S. pharmaceutical
10 business.

11 Q. And when did you take on the
12 role of senior vice president and chief
13 operating officer?

14 A. Roughly August of 2017.

15 Q. Prior to taking on your current
16 role, how long did you work for McKesson?

17 A. I've been with the company a
18 little over 17 years. Just celebrated my
19 17th anniversary, I believe.

20 Q. Let's talk about your
21 background. First, where did you go to
22 college?

23 A. I graduated from a small
24 liberal arts school outside of Philadelphia
25 called Ursinus College.

1 Q. When did you graduate from
2 Ursinus College?

3 A. 1993.

4 Q. After graduating from college
5 what was your first job?

6 A. My first job out of school was
7 selling Yellow Pages advertising.

8 Q. How long did you work in your
9 job selling Yellow Pages advertising?

10 A. I believe about three years,
11 maybe a little less.

12 Q. After you stopped working in
13 the Yellow Pages advertising position, what
14 job did you take after that?

15 A. I actually went to go work for
16 a customer that I met through my employment
17 at the Yellow Pages that owned a mail order
18 diabetes pharmacy called Advantage Health
19 Services.

20 Q. How did you come to join
21 McKesson in 2002?

22 A. Advantage was actually a
23 customer of McKesson at different periods of
24 time. The company was sold roughly halfway
25 through my tenure to Sun Healthcare. I

1 stayed for a number of years. Unfortunately,
2 that company actually went through a Chapter
3 11 bankruptcy and at that point in time I
4 began looking for opportunities. I was
5 familiar with McKesson and came to McKesson
6 in 2002.

7 Q. What was your position when you
8 joined McKesson?

9 A. My first role was a retail
10 sales executive.

11 Q. What were your responsibilities
12 as a retail sales executive?

13 A. The primary responsibilities of
14 a retail sale executive were business
15 development, trying to work with non-McKesson
16 customers to understand their needs and see
17 if there was a fit with McKesson.

18 Q. How did you identify potential
19 customers when you were working as a retail
20 sales executive?

21 A. I think through a variety of
22 sources, back to that time. Believe it or
23 not, the Yellow Pages was one of them that we
24 used, but there were also lists of
25 pharmacies. I remember the Hayes Directory

1 being a list of pharmacies. A lot of my time
2 was spent in New York City where in that
3 market you can literally just park your car
4 and walk and find pharmacies.

5 Q. How long did you serve as a
6 retail sales executive at McKesson?

7 A. I believe about four years.

8 Q. And your next position I think
9 you testified earlier was as a district sales
10 manager?

11 A. Correct, a district sales
12 manager for our Delran distribution center.

13 Q. What were your responsibilities
14 as a district sales manager?

15 A. I was a frontline sales
16 manager, leading a team of, you know, seven
17 to probably 15 retail sales managers at
18 different periods of time that maintained the
19 relationships that we had with our existing
20 McKesson distribution customers.

21 Q. And what territory did you
22 cover as a district sales manager?

23 A. It changed a little bit during
24 my tenure there. I initially started with
25 just the Delran distribution center, which

1 would have been the eastern half of
2 Pennsylvania, New Jersey, New York City, a
3 little bit of Maryland and Delaware, and was
4 later expanded to our New Castle distribution
5 in addition, which would have been the
6 western half of Pennsylvania, eastern Ohio, a
7 little bit of West Virginia.

8 Q. What was your next position at
9 McKesson after you served as a retail sales
10 manager?

11 A. I was promoted to a vice
12 president of sales for the same markets.

13 Q. And how long did you have that
14 position?

15 A. A little over three years, I
16 believe.

17 Q. What was your next position at
18 McKesson?

19 A. I was promoted again to vice
20 president and general manager for our
21 facility in Memphis, Tennessee, so I had
22 sales and operations responsibility for the
23 markets served by that distribution center.
24 Made a move from New Jersey at the time to
25 Collierville, Tennessee.

1 Q. And what was your next position
2 at McKesson?

3 A. I believe about three years
4 later had a chance to go back to the
5 northeast region and lead our northeast
6 region operations as the senior vice
7 president for that market.

8 Q. And that was your position
9 before you assumed your current position; is
10 that correct?

11 A. Correct, up until August of
12 '17.

13 Q. Mr. Cavacini, how would you
14 describe your level of familiarity with the
15 sales team's operations at McKesson's
16 U.S. Pharma division?

17 A. I think I have a pretty deep
18 understanding. For the better part of my
19 17-year career, I've been part of that team
20 in one fashion or another, as an individual
21 contributor and sales manager and now leader
22 of an organization.

23 Q. Based on your experience, how
24 would you describe the goal of the sales team
25 at McKesson in relation to prospective

1 customers?

2 MR. BOGLE: Object to form.

3 A. I've heard it described and
4 I've described it to my teams that we want to
5 have long-term customers that value the
6 services and solutions we provide. For the
7 better part of my career, our health system's
8 partners, as well as our retail independent
9 customers, have been under intense pressure,
10 reimbursement pressure. Clinical therapies
11 have become more complex. They're constantly
12 being asked to do more.

13 And we talk about the customers
14 choose us not only for the value and the
15 services we provide today, but because we
16 share a common vision for the future of
17 pharmacy. And I think that is what we're
18 trying to pursue.

19 BY MS. HENN:

20 Q. And again, based on your
21 experience, how would you describe the goal
22 of the sales team at McKesson in relation to
23 existing customers?

24 MR. BOGLE: Object to form.

25 A. I think it's to build mutually

1 beneficial and rewarding relationships. I
2 spoke earlier about our ICARE shared
3 principle "C," and that is customer centered
4 where we think about our business through our
5 customers' eyes and try to make sure that,
6 where we can, we're aligned around where
7 healthcare is going and how we can perform
8 our part to serve the pharmacies that are our
9 customers as well as the communities they
10 serve and that we live in and work out.

11 BY MS. HENN:

12 Q. Based on your experience over
13 your 17 years at McKesson, describe the
14 typical relationship between a retail sales
15 manager and a customer.

16 MR. BOGLE: Object to form.

17 A. I do think it varies, but my
18 experience has been that more often than not,
19 that that is a deep relationship. In many of
20 our -- the business relationships that we
21 have with our customers, we are probably
22 their largest vendor and have significant
23 impact on their business and their abilities
24 to perform for their communities.

25 One of the things that I'm most

1 proud of, if you walk into one of our
2 distribution centers, not only will you see
3 ICARE, but you will see a slogan that "It's
4 not a package, it's a patient."

5 We hammer home to our
6 associates in the DC, as well as our sales
7 teams, that at the end of every one of our
8 processes is a patient; somebody's mother,
9 child, that's in need and waiting for the
10 medications we provide. And we take that
11 responsibility very seriously in working with
12 our customers.

13 We've also had customers come
14 into our distribution center to share that
15 same message and the impact that we have on
16 their businesses and their communities.

17 BY MS. HENN:

18 Q. How does the sales team
19 interact with the regulatory affairs team at
20 McKesson?

21 MR. BOGLE: Object to form.

22 A. In a variety of ways. I mean,
23 I've heard it described and I've described it
24 myself that our sales team is an important
25 part of our Controlled Substance Monitoring

1 Program, been described as our first line of
2 defense. They spend the most time with our
3 customers.

4 And our new customer
5 onboarding, they're working with the customer
6 to complete the questionnaire. The customer
7 fills out that questionnaire and signs it,
8 hopefully in presence of the sales rep, and
9 the sales rep is making observations about
10 what he sees -- he or she sees and observes
11 relative to what's being represented by the
12 customer on the questionnaire.

13 That's shared with our
14 regulatory affairs team who has the ultimate
15 decision. I mean, they are supportive and
16 collaborative, but independent.

17 BY MS. HENN:

18 Q. What, if any, training do
19 sales -- does the sales team receive in the
20 area of controlled substances monitoring?

21 MR. BOGLE: Object to form as
22 to time.

23 A. During my career I've been a
24 part of and witnessed, you know, several
25 different sales trainings. As part of our

1 National Sales Conference, on a number of
2 years we've had annual refreshers for our
3 sales teams around the controlled substance
4 monitoring, our responsibilities under it.

5 As part of our new hire
6 orientation, when new associates join the
7 company, they go through a training and
8 onboarding process which includes education
9 and review on our CSMP and their
10 responsibilities.

11 BY MS. HENN:

12 Q. Could you describe McKesson's
13 culture in the area of controlled substances
14 monitoring compliance?

15 MR. BOGLE: Object to form.

16 A. I would say diligent. We take
17 our responsibilities very seriously. We have
18 worked and invested significantly to try to
19 develop the best program that we can have to
20 execute our responsibilities.

21 I spoke earlier about the
22 commitment that we have to all our customers
23 and that we communicate to our associates
24 that the license that we have is critical to
25 our business in order to meet the full

1 pharmaceutical needs of the customers we
2 serve, and I would rather make hard decisions
3 around individual customers than potentially
4 risk my relationship with, you know, all the
5 other ones, including major health systems
6 and trauma centers and our government and DOD
7 business. We try to be as diligent as we
8 can.

9 MS. HENN: I have no further
10 questions.

11 Would you like to go off the
12 record and switch?

13 MR. BOGLE: Let's go off the
14 record just a second and let me think
15 for like 30 seconds.

16 THE VIDEOGRAPHER: We're off
17 the record at 4:54 p.m.

18 (Recess taken, 4:54 p.m. to
19 4:55 p.m.)

20 THE VIDEOGRAPHER: Back on the
21 record at 4:55 p.m.

22 EXAMINATION

23 BY MR. BOGLE:

24 Q. Mr. Cavacini, just to follow up
25 on one point here: You just talked about

1 McKesson's culture as it pertains to
2 controlled substance monitoring. I think one
3 of the things you said was you take it very
4 seriously, right?

5 A. I believe we do, yeah.

6 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

11 MS. HENN: Objection to form.

12 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

16 BY MR. BOGLE:

17 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

21 MS. HENN: Objection to form,
22 vague.

23 [REDACTED]
[REDACTED]
[REDACTED]

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MS. HENN: Objection to form,

lacks foundation.

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 MS. HENN: Objection to form.

22 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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MS. HENN: Same objection.

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MR. BOGLE: Okay. No further questions.

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MS. HENN: Before we go off the record, I would just like to ask that the -- pursuant to the protective order, the transcript and all exhibits be designated highly confidential pending review and designation.

And I would also ask that the witness have the opportunity to read and sign.

MR. RALEY: Cardinal will reserve its questions for the time of hearing or trial.

THE VIDEOGRAPHER: Anyone on the phone? Off the record?

MS. HENN: Thanks.

1 THE VIDEOGRAPHER: We're off
2 the record at 4:59 p.m. This
3 concludes Disc 4.

4 (Proceedings recessed at
5 4:59 p.m.)

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CERTIFICATE

I, MICHAEL E. MILLER, Fellow of the Academy of Professional Reporters, Registered Diplomate Reporter, Certified Realtime Reporter, Certified Court Reporter and Notary Public, do hereby certify that prior to the commencement of the examination, EUGENE G. CAVACINI was duly sworn by me to testify to the truth, the whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a verbatim transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth, to the best of my ability.

I DO FURTHER CERTIFY that pursuant to FRCP Rule 30, signature of the witness was requested by the witness or other party before the conclusion of the deposition.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

MICHAEL E. MILLER, FAPR, RDR, CRR
Fellow of the Academy of Professional Reporters
NCRA Registered Diplomate Reporter
NCRA Certified Realtime Reporter
Certified Court Reporter

Notary Public in and for the
State of Texas
My Commission Expires: 7/9/2020

Dated: January 29, 2019

1 INSTRUCTIONS TO WITNESS

2

3 Please read your deposition over
4 carefully and make any necessary corrections.
5 You should state the reason in the
6 appropriate space on the errata sheet for any
7 corrections that are made.

8 After doing so, please sign the
9 errata sheet and date it.

10 You are signing same subject to
11 the changes you have noted on the errata
12 sheet, which will be attached to your
13 deposition.

14 It is imperative that you return
15 the original errata sheet to the deposing
16 attorney within thirty (30) days of receipt
17 of the deposition transcript by you. If you
18 fail to do so, the deposition transcript may
19 be deemed to be accurate and may be used in
20 court.

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1	ERRATA		
2	PAGE	LINE	CHANGE
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1 ACKNOWLEDGMENT OF DEPONENT

2
3 I, EUGENE G. CAVACINI, do hereby
4 certify that I have read the foregoing pages
5 and that the same is a correct transcription
6 of the answers given by me to the questions
7 therein propounded, except for the
8 corrections or changes in form or substance,
9 if any, noted in the attached
10 Errata Sheet.
11

12 _____
13 EUGENE G. CAVACINI

DATE

14 Subscribed and sworn to before me this
15 _____ day of _____, 20 _____.
16 My commission expires: _____
17

18 _____
19 Notary Public
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